

CLEVELAND TOWNSHIP ZONING ORDINANCE

(As amended)

An Ordinance in the Township of Cleveland, County of Leelanau, to establish land use and building occupancy districts; to govern nonconforming land uses and building occupancy; to establish the office of Zoning Administrator and a Board of Appeals, and to define their respective duties and authority for the administration of this Ordinance; to define certain terms used herein; to provide for the enforcement and to impose penalties for violation of this Ordinance.

An Ordinance enacted pursuant to P.A. 184 of 1943, as amended, (being the Township Zoning Act, M.C.L. 125.271, et seq). The continued administration of this Ordinance, amendments to this Ordinance, and all other matters concerning operation of this ordinance shall be done pursuant to P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101, et seq).

Adopted: July 23, 2015

Effective Date: December 15, 2020

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Article I. PREAMBLE

Section 1.01 Title

This Ordinance shall be known and may be cited as the "Cleveland Township Zoning Ordinance".

Section 1.02 Purpose

The purpose of this Ordinance is to promote the health, safety, convenience, comfort, prosperity and general welfare of the people of Cleveland Township, Leelanau County, Michigan; to encourage the most appropriate use of property, to conserve and stabilize the value of property; to prevent undue concentration of population; to lessen the congestion on public roads; to reduce hazards to life and property; to facilitate adequate provisions for utilities and facilities, such as transportation, sewage disposal, water supply, schools and other public requirements and to promote the orderly development of the agricultural, residential, commercial and recreational interests of the people of said Township. Nothing in this Ordinance is to be construed so as to discriminate against any person or persons on the basis of race, color, creed or national origin.

Article II. LAND USE DISTRICTS

Section 2.01 Districts

For the purposes of this Ordinance, the Township of Cleveland is divided into nine (9) land use districts as follows: (a) Residential I (b) Residential II (c) Residential III (d) Commercial-Resort (e) Recreational (f) Business I (g) Business II (h) Agricultural (i) Governmental.

Section 2.02 Maps

The land use district into which each parcel of land in the Township is placed is shown on a zoning map which accompanies and is hereby made a part of this Ordinance. Said Maps, or an exact copy thereof, shall be available for examination at the office of the Township Clerk at all reasonable times, and shall be kept with the records of the Township Clerk. Unless otherwise stated, all land use district boundaries shown on said Map are intended to follow lot lines, or the center lines of roads, streets, or alleys as they existed on the date of enactment of this Ordinance, or section or section lines.

The most recently reproduced copy of the official zoning map provided for herein shall be revised from time to time at the direction of the Township Board to reflect any change in land use districts as the result of amendments to this zoning ordinance or as the result of any other lawful action causing change, such as judicial decisions. A copy of the most recent map approved by the Township Board also shall be prominently displayed in the Township Hall.

Section 2.02.1 The Zoning Map

The zoning map, produced by the Leelanau County Planning and Community Development Department, and dated September 2012 as reviewed by the Cleveland Township Planning Commission and presented for public consideration, shall be the official zoning map.
(As amended by ordinance # 1 of 2013, effective date July 20, 2013)

Section 2.03 Exact Location

The Zoning Board of Appeals shall determine, when required, the exact location of land use district boundaries that otherwise may be in question.

Article III. DEFINITIONS

Section 3.01 Words Defined

For the purpose of this Ordinance, unless the context requires otherwise, the following definitions shall be used in the interpretation of this Ordinance:

- (a) The word "shall" is mandatory, not discretionary.
- (b) The word "may" is permissive.
- (c) Words used in the present tense include the future tense.
- (d) The singular number includes the plural, and the plural, the singular.
- (e) The word "person" includes a firm, association, organization, trust, partnership, company, or corporation, as well as an individual.
- (f) The word "occupied" and the word "used" shall be considered as though followed by the words, "or intended, arranged, or designed to be occupied or used".
- (g) Any word(s) requiring special interpretation and/or not listed in this article shall be interpreted by the Cleveland Township Zoning Board of Appeals.

Section 3.02 Accessory Building

A subordinate structure located on the same lot as the main structure or use.

Section 3.03 Accessory Use

A use which is normally incidental to the main use of the premises.

Section 3.04 Adult Foster Care Home

A state licensed residential facility as that term is defined by the Michigan Zoning Enabling Act, public act 12 of 2008, as amended, [MCL 125.131, et seq] and as also defined in the Adult Foster Care Facility Licensing Act, Public Act 218 of 1979, as amended [MCL 400.701, et seq], and that is used for the care and supervision of six (6) or fewer persons under 24-hour supervision.

Section 3.05 Agriculture

The art and science of cultivating the ground for the production of crops (including forestry) and livestock.

Section 3.06 Bed & Breakfast

Primarily a family dwelling where lodging with or without meals is furnished on a paying basis to three or more persons who are not members of the family occupying and operating the premises.

Section 3.07 Benefit, Recognizable and Substantial

A clear benefit, both to the ultimate users of the property in question and to the community, which would reasonably be expected to accrue. See section 4.18.d.

Section 3.08 Building

Any structure, either temporary or permanent, having a roof, but shall not include temporary housing units.

Section 3.09 Cabins

Any building or similar structure which is maintained, offered or used for dwelling or sleeping quarters for transients, or for temporary residence, but shall not include what are commonly designated as hotels, lodgings, houses or tourist homes or motels.

Section 3.10 Clinic

An establishment where patients who are not lodged overnight, are admitted for examination and treatment by a state licensed/certified health care professional(s).

Section 3.11 Collocation

The use of a wireless telecommunications facility by more than one wireless communications provider.

Section 3.12 Convenience Store

A small store which typically sells a limited range of household goods and groceries. Such store may or may not sell gasoline.

Section 3.13 Custom Assembly Operation

A business where goods are made to order for individual customers, not on a mass-production scale.

Section 3.14 Density

Number of dwelling sites per number of acres.

Section 3.15 Development

Any improvement in the form of buildings or structures on any parcel of land.

Section 3.16 Development Lot Area

For use within the Residential District only, the area required for a mixed use development.

Section 3.17 District

A section or sections of the Township for which the zoning regulations governing the use of building and premises, the height of buildings, size of yards, and the intensity of use are uniform.

Section 3.18 Driveway

A passage along which vehicles or animals may be driven.

Section 3.19 Dwelling

Any building or part thereof, occupied as the home, residence, or sleeping place of one or more persons either permanently or transiently, except automobile trailers, mobile homes or cabins. The building or part thereof shall provide complete independent living facilities for one or more persons, including, permanent provisions for living, sleeping, eating, cooking, well/water, and sanitation.

Section 3.20 Dwelling Site

The area wherein an Ag-Residential Lot has been established.

Section 3.21 Erected

A process which includes built, constructed, reconstructed, moved upon or any physical operations on the land required for the building, such as excavations, fill, drainage, etc.

Section 3.22 Family

An individual, or two (2) or more persons related by blood, marriage, or adoption, or a group not related by marriage and not exceeding two (2) adults plus offspring in number, occupying a premises and living as a single non-profit housekeeping unit, with single culinary facilities as distinguished from a group occupying a boarding house, lodge, hotel, club, fraternity, or similar dwelling intended for group usage. Any domestic servants residing on the premises shall be considered as part of the family.

Section 3.23 Farm

A tract of land, or any parcel of land amounting to ten (10) acres or more or such lesser size as may be determined by the Michigan Commission of Agriculture, if, devoted to agriculture for the production, use and/or sale of such crops; livestock; including among other things, the raising of domestic or other animals; chicken farms, fruit farms; forest and forest processing and sale of lumber, maple syrup, fuel and related products, grazing lands, and other things and uses not herein named, for which such lands are generally used.

Section 3.24 Farm Buildings

Any or all buildings, structures, or land uses required for the operation of a farm, including a dwelling unit if allowed per Section 9.04 and used exclusively for residential purposes; barns; poultry houses; silos; storage structures for hay, grains; vegetables, dairy products, fruit and other products produced; machinery, tools, and other accessory structures not specifically mentioned but needed for the proper and efficient operation of a farm. Any residential dwelling shall meet the size requirements of Residential II, as outlined in Section 5.06.

(a) Farm Dwelling Unit

The existing dwelling unit on a farm on the effective date of Section 9.04 (June 26, 1996). Or if none existed at the time, the first dwelling unit to be sited on ten or more acres. Any residential dwelling shall meet the requirements of Residential II, as outlined in Section 5.06.

(b) Non-farm Dwelling

A dwelling unit erected on a lot which has been divided from the parent parcel of the farm

or vacant acreage in the Agricultural Zoning District as it existed on the effective date of Section 9.04 (June 26, 1996).

Section 3.25 Garage, Commercial

A building or portion thereof other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling or storing motor vehicles.

Section 3.26 Garage, Private

An enclosed building or semi-open carport designed for storage.

Section 3.27 Gasoline Service Station

A building or premises together with the necessary equipment used for direct retail sale of gasoline or other motor fuels, oils, or minor accessories, servicing and repair of motor vehicles, trailers, and boats. This definition shall also include the uses defined under Garage, Commercial.

Section 3.28 Guest House

An accessory building intended for occupancy by non-paying guests.

Section 3.29 Highway

Any public thoroughfare, except alleys, within Cleveland Township including federal, state and county roads.

Section 3.30 Home Occupations

Occupations engaged in a dwelling, garage and/or accessory building by the resident or residents of the same complying with the following conditions and limitations:

- (a) are operated in their entirety within the dwelling, garage, and/or accessory building located on the premises, the space to be used therefore limited to 50% of the floor area of the principal dwelling;
- (b) are only conducted by the person or persons occupying the premises as their principal residence a major portion of each month;
- (c) the buildings used shall show no external evidence, other than a permitted sign, that they are being used for a home occupation;
- (d) the occupation conducted therein is clearly incidental and subordinate to the principal use of the premises for residential purposes;
- (e) no goods are sold from the premises which are not strictly incidental to the principal home occupation conducted therein;
- (f) no occupation shall be conducted upon or from the premises which would constitute a nuisance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises. Noise, smoke, odor, electrical disturbance or the source of lighting shall not be discernible beyond the boundaries of the property from which the occupation is conducted.
- (g) any such home occupation shall be subject to annual inspection by the Zoning Administrator of the Township, and may be terminated by order of such Administrator whenever the same fails to comply with the Zoning Ordinance;
- (h) the Zoning Administrator or the Zoning Board of Appeals shall have authority to determine whether or not a proposed use complies with the Zoning Ordinance.

Section 3.31 Home Business

Occupations engaged in a dwelling, garage, and/or accessory building within the Agricultural District that exceed the conditions and limitations of a Home Occupation, but that meet the requirements of Section 9.10.

Section 3.32 Hotel (or Inn)

A building where lodging with or without meals is furnished to transient or resident guests for compensation and containing more than four (4) sleeping accommodations and possibly having limited cooking facilities in any individual lodging, but wherein a restaurant may be located.

Section 3.33 House – Rooming

Primarily a family dwelling where lodging with or without meals is furnished on a weekly, monthly or any paying basis to three or more persons who are not members of the family occupying and operating the premises, but not necessarily to anyone who may apply.

Section 3.34 Industrial

A building or structure housing a manufacturing process.

Section 3.35 Junk

Any type of waste material, refuse, or equipment which has not been put to an alternative useful purpose or which is no longer useful to the degree for which it was originally intended.

Section 3.36 Kennel

A facility for boarding domestic household pets, including housing and connected runs.

Section 3.37 Lattice Tower

A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

Section 3.38 Lodge

A structure for use as a meeting place for members of private clubs, lodges, and other non-profit fraternal or religious organizations.

Section 3.39 Lot

An area of land with its own parcel number registered with the Leelanau County Register of Deeds, or which had been laid out by a registered surveyor prior to the effective date of this Ordinance (February 5, 2005) per section 5.9.

Section 3.40 Lot: Ag-Residential

A lot of less than 10 acres created under Section 9.04 from a parent parcel which may be used as a residential dwelling site.

Section 3.41 Lot Area

The measurement of a lot in square footage determined by the dimensions as stated in the legal description and/or land survey.

Section 3.42 Lot Depth

The distance between the front lot line and the rear lot line, measured from the midpoint of each line.

Section 3.43 Mini-Storage Facilities

A building or group of buildings in a controlled access or fenced area that contains individual compartmentalized and controlled access stalls or lockers for the storage of customer's goods or wares which are generally not used on a daily basis, including recreational vehicles and watercraft.

Section 3.44 Mobile Home

A structure, transportable in one (1) or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

Section 3.45 Monopole

A type of mount that is self-supporting with a single shaft and securely anchored to a foundation.

Section 3.46 Motel

A building or group of buildings having units containing sleeping accommodations which are available for temporary occupancy.

Section 3.47 Multi-Family Dwelling

A building or portion thereof containing two or more dwelling units and designed for, or occupied as, the home of two or more families living independently of each other.

Section 3.48 Non-conforming Lot

A parcel of land which does not conform to the dimensional requirement of the zoning district in which it is located, but that did meet the requirements of the zoning district prior to the adoption or amendment of this Ordinance.

Section 3.49 Non-conforming Use

Any activity conducted on a parcel of land that is NO longer an allowable use in said zoning district but that did meet the requirements of the zoning district prior to the adoption or amendment of this ordinance.

Section 3.50 Non-conforming Structure

A structure that does not conform to the requirements of the zoning district in which it is located but that did meet all of the requirements prior to adoption or amendment of this Ordinance.

Section 3.51 Nuisance

A condition, activity, or situation (such as a loud noise or foul odor) that interferes with the use or enjoyment of property; especially a non-transitory condition or persistent activity that either injures the physical condition of adjacent land or interferes with its use or with the enjoyment of easements on the land or of the public highways.

Section 3.52 Nursing Home

A state licensed facility for dependent persons who are provided with food, shelter and care for compensation

Section 3.53 Open Space

Natural or Landscaped areas without structures, except those structures exempt under Section 4.14 and/or under Section 4.18 (f).

Section 3.54 Parent Parcel

The parcel of land as described on the property role and tax maps as of March 30, 1997, the effective date of the State 'Land Division Act' being March 31, 1997. To qualify for the creation of Ag-Residential Lots, the parent parcel must be at least 20 acres in size. An applicant may elect to treat contiguous tax parcels as one parent parcel.

Section 3.55 Park

Park is any non-commercial recreational area open to the public.

Section 3.56 Public Utility

Any person, firm, corporation, municipal department or board, duly authorized to furnish and furnishing, under regulation, transportation, water, gas, electricity, communications, or sewage disposal and other services.

Section 3.57 Restaurant

A building where, for payment, meals are prepared, sold and served for consumption on or off the premises, but not to include drive through facilities, and deriving the major portion of its receipts from the sale of foods.

Section 3.58 Restricted Space

Area of land remaining in a parent parcel after the creation of Ag- Residential Lot(s).

Section 3.59 Retail Stores

A store, market or shop in which commodities are sold, or offered for sale, in small or large quantities to the public.

Section 3.60 Roadside Stand

Any accessory structure or building located along a public road, used or intended to be used solely for the purpose of the sale of products and situated upon lands used for agriculture.

Section 3.61 Service Institutions

A store, market or shop in which services are sold, or offered for sale, to the public such as, but not limited to: professional offices, real estate offices, barber and beauty shops, retail establishments, and small repair shops.

Section 3.62 Setback Lines

Lines established parallel to property lines to define areas within which no building or structure or any part thereof, shall be erected or permanently maintained.

Section 3.63 Sign

Any device, structure, fixture, placard or other object used for the display of any message.

Section 3.64 Sign, Fixed

A sign mounted on a structure or foundation.

Section 3.65 Sign, Portable Temporary

A sign mounted by posts, wire, plastic, or other means pushed or stuck in the ground and which are not fastened to a foundation

Section 3.66 Sign, Posted

A sign attached to a tree or fence post which is smaller than 1.25 square feet.

Section 3.67 Sign, Sandwich Board

A sign placed on the ground which is portable temporary and not anchored or secured.

Section 3.68 Sign, Wall

A sign mounted on or otherwise displayed on the surface of a wall.

Section 3.69 Single Family Dwelling

A detached building containing one dwelling unit and designed for, or occupied by, one family.

Section 3.70 Sleeping Accommodations

When used as part of a motel or hotel, one (1) unit for rent which typically includes a bedroom and bathroom.

Section 3.71 Stable, Commercial Riding

A commercial structure maintained for rental, boarding, grooming, or training of horses.

Section 3.72 Streets

A public thoroughfare intended for vehicular use.

Section 3.73 Structure

Any construction of material artificially built up or composed of parts joined together including, but not limited to: buildings, signs, towers, poles, and antennas.

Section 3.74 Telecommunication

The technology which enables information to be exchanged through the transmission of electronic signals.

Section 3.75 Temporary Housing Unit

Any self-contained housekeeping unit of less than 700 square feet, whether or not mounted on wheels and designed to be moved repeatedly. Such units shall include licensed and/or unlicensed recreational travel trailers, recreational vehicles, motor homes, truck campers, camping trailers, house cars, or any other similar unit.

Section 3.76 Tourist Home

Primarily a family dwelling where lodging with or without meals is furnished for compensation chiefly on an overnight basis and mainly to transients but not necessarily to anyone who may apply.

Section 3.77 Unaltered Grade

Grade or topography existing prior to any excavation, clearing, grading, or filling.

Section 3.78 Use

The purpose for which land or a building thereon is designed, arranged or intended to be occupied or used or which is occupied or maintained.

Section 3.79 Warehouse

A building where goods and/or equipment is stored.

Section 3.80 Water

Any natural body of water considered a lake or pond. Any flowing brook, stream, creek, or river; the flow is not limited to year around, it can be seasonal.

Section 3.81 Waters Edge

The ordinary high water mark on the shore of any lake or pond. The “top of the bank”. (i.e., the topographical break in the slope that denotes the outer edge of any brook, stream, creek or river.

Section 3.82 Wireless Telecommunications Antenna

A commercially operated device through which electromagnetic over-the-air signals are transmitted and/or received.

Section 3.83 Wireless telecommunication equipment shelter

The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.

Section 3.84 Wireless telecommunications facility

The equipment and structures involved in transmitting and/or receiving over-the-air electromagnetic signals.

Section 3.85 Wireless telecommunications tower

A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.

Section 3.86 Yard

The area of any lot not supporting any building. Yard measurement shall be the minimum horizontal distances:

- (a) Yard, Front: A yard extending the full width of the lot between the front lot line (street frontage) and the nearest line of the main building.
- (b) Yard, Rear: A yard extending across the full width of the lot between the rear lot line (or waters edge) and the nearest line of the main building.
- (c) Yard, Side: A yard extending from the front yard to the rear yard between the side lot line and the nearest line of the main building or of accessory building.

Article IV. GENERAL PROVISIONS

Section 4.01 Scope

Except as otherwise provided in this Ordinance, no lot or parcel of land, no existing building, structure or part thereof, and no new building, structure or part thereof, shall hereafter be located, erected, constructed, reconstructed, altered or used for purpose other than in conformity with the provisions of this Ordinance.

Section 4.02 Continuing Existing Uses

Use of any building, structure, or lot or parcel of land in any use district that was lawful prior to the effective date of this Ordinance, may be continued, except as hereinafter provided:

- (a) A non-conforming use existing at the time this Ordinance takes effect may be continued, except that if it is voluntarily discontinued for one year or more, it shall then be deemed abandoned and any further use must be in conformity with the use permitted in such district, except further that agricultural or farmlands are not subject to the one year limitation noted above.
- (b) Any building or structure arranged, intended or designed for a use which is made non-conforming by the passage of this Ordinance or any amendment thereto, the construction of which has been started at the time of the passage of this Ordinance or said amendment thereto, but not completed, may be completed and put to such non-conforming use, providing it is done within one (1) year after this Ordinance or the amendment takes effect.
- (c) Any non-conforming use and any building or structure devoted to a use made non-conforming by the terms of this Ordinance or any amendment thereto may be altered or enlarged so as to extend said nonconforming use within the limits of the parcel of land devoted to said non-conforming use as said parcel of land existed on the date that this Ordinance or the amendment takes effect. Such alteration or enlargement and such extended use must conform to all of the requirements of this Ordinance as they pertain to such use in the districts wherein they are permitted. If such non-conforming use is not permitted in any district, then such alteration or enlargement must conform to the setback lines and side yard requirements for the district in which such non-conforming use is located.
- (d) Whenever a non-conforming use has been changed to a use permitted in a more restricted district or to a conforming use, and has remained such for a period of one (1) year, such use shall not thereafter be changed back to such original non-conforming use.

Section 4.03 Restoration of Damaged Non-conforming Buildings

Nothing in this Ordinance shall prevent the reconstruction, repair or restoration and resumption of use of any non-conforming building or structure damaged by fire, collapse, explosion, act of God, or acts of the public enemy following the effective date of this Ordinance; provided that such reconstruction, repair or restoration is commenced within one (1) year and completed within one hundred eighty (180) days after commencement following the granting of a permit for such reconstruction, repairs, or restoration. Failure to comply with these provisions for resumption of non-conforming use shall cause the privilege of non-conforming use to be discontinued.

Section 4.04 Yard, Area and Lot Relations

Every building or buildings hereafter erected shall be located on a lot or parcel of land, the description of, and the deed to which, shall be on record in the office of the Register of Deeds of this County or on lot or parcels of land, the description of which shall be contained in a bona fide land contract or lease which is in full force and effect at the time of application for a permit under this Ordinance. In the event the proposed building is to be erected on a parcel of land which is a part of the larger parcel, the area to be devoted to the use and necessary for compliance with the requirements of this Ordinance shall be designated by a legal description which shall be attached to the application for a land use permit.

Section 4.05 Sanitation Requirements

The placement of any sewage disposal system on any lot shall be such as not to endanger the domestic water supply of any neighboring property owner, and its location and construction shall be subject to the approval of the area acting Health Department.

Section 4.06 Fire Hazards

In order to prevent overcrowding of buildings and structures, reduce fire hazards, and maintain free access to all buildings for the Fire Department:

- (a) Minimum Yard – No building or structure, including roof overhang, shall be closer than ten (10) feet to any property line, except as provided for in Section 8.06
- (b) Maximum Building Height – No building or structure intended for human habitation shall exceed thirty-five (35) feet in height unless the portion of the building or structure over 35 feet has its own provisions for fire protection meeting the standards set forth by the National Fire Protection Association Handbook and the BOCA Basic Building Code and is approved by the local Fire Department.
- (c) Maximum Lot Coverage - The yard area free of all buildings and structures shall constitute at least seventy-five (75) per cent of the lot area, except as provided for in Section 8.05.
- (d) Clear Access - All uses permitted in any district shall provide and maintain a driveway or clear right-of-way to each building, unobstructed by bordering trees of not less than sixteen (16) feet in width or less than fourteen (14) feet vertically from the ground.

(amended January 14, 2020)

Section 4.07 Essential Public Services

The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of overhead or underground gas, electrical, or water distribution systems, sewer systems, etc., including mains, drains, sewers, wires, cables, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, and similar equipment and accessories in connection therewith (but not including sewage disposal plants), reasonably necessary for furnishing adequate service by such public utility or municipal department or commission, or for the public health or safety or general welfare, shall be permitted as authorized or regulated by law, in any land use district.

Section 4.08 Agriculture Privilege

Land in any district may be used for agricultural purposes in accordance with the Michigan Right-to-Farm Act [MCL 286.471, et seq]. A zoning certificate shall be required for the construction of buildings incident to the use for agricultural purposes of the land on which such buildings shall be located. Such buildings shall conform to the regulations contained in this Ordinance. For the purpose of this Ordinance, "agriculture" shall include agriculture, farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry.

Section 4.09 Developments

Any development in excess of ten (10) acres must be approved by the Zoning Administrator.

Section 4.10 Signs

To govern the use of signs, the following provisions permitting the erection, use, and maintenance of signs will apply:

- (a) One sign of not more than twenty-four (24) square feet in area, shall be permitted on any unimproved real estate in any residential district, provided such signs are located not less than five hundred (500) feet from any existing residence. Such signs shall be permitted in all other districts.
- (b) Groups of signs may be placed on property, regardless of zone, but the total area of the group may not exceed twenty four (24) square feet.
- (c) All signs in a group will be of homogeneous design and similar coloration.
- (d) The location of such group of signs shall be such as to constitute minimum obstruction of vision for either traffic, pedestrians, or occupants of the area.
- (e) Two (2) signs, of not more than twelve (12) square feet each, may be erected on same premises in any district, without regard to setback lines.
- (f) No sign shall be affixed in any manner to poles or trees.
- (g) In the interest of public safety, no spinners, pennants, flashing lights, or other distractive devices, may be used in conjunction with any sign or business.
- (h) Signs are not subject to setback requirements unless specifically called for in the Ordinance and/or the Michigan Department of Transportation and/or the Leelanau County Road Commission.
- (i) Where allowed, signs may be illuminated by a shielded light shining downward onto the sign. The source of light shall be baffled so it is not visible to vehicles or pedestrians on any road, water body, public land, adjacent parcels, or in the air above the illumination.
- (j) All signs and sign structures shall be maintained in good, safe, structural condition and repair. All signs and display surfaces shall be neat in appearance and neatly painted or posted, and not ripped, tattered or faded. Premises immediately surrounding freestanding signs shall be kept clean and free of rubbish, weeds and debris.
- (k) Signs shall not exceed the height of six (6) feet above the unaltered grade of the lot.
- (l) Structural elements necessary for the support of the sign(s) shall not be included in the square footage computation so long as they are separate from the sign face by a reveal or a change in materials. Square footage calculation shall include such elements as decorative borders, top caps, and drop signs.
- (m) Sign removal: Once the purpose of the sign is ended, the sign shall be removed within 30 calendar days. Anything used to solely support or provide a structure for a sign and not in use for any other purpose shall be removed.
- (n) All signs shall be installed only with the prior approval of the property owner.

- (o) Portable temporary signs and sandwich board signs with no illumination, under a maximum height of six (6) feet as noted above, do not require a permit. All other signs require a sign permit.

Section 4.11 Amendments

Any individual, corporation, association, officer, department, board, or bureau of the State, County, or Township affected by this Ordinance may submit a petition in writing to the Secretary of the Township Planning Commission, requesting that consideration be given to amendment of this Ordinance in the particulars set out in the petition. Upon receipt of such petition, the Township Planning Commission shall, within thirty (30) days, hold a meeting to consider such petition. The person submitting such petition shall be notified of the time and place of such meeting not later than ten (10) days prior thereto.

The procedure for making amendments to this Ordinance shall be pursuant to P.A. 110 of 2006, as amended (being the Michigan Zoning Enabling Act, (MCL. 125.3101, et seq.)).

Section 4.12 Land Use Change, Resubmittal

No application for a rezoning which has been denied by the Township Board shall be resubmitted for a period of one year (1) from the date of the last denial.

Section 4.13 Temporary Housing Units

A maximum of two (2) temporary housing units may be located on any parcel of land without issuance of a land use permit provided the following conditions and limitations are met:

- (a) Each unit shall:
 - (i) Be maintained in a reasonable state of repair and in working condition;
 - (ii) Meet all applicable setback requirements;
 - (iii) Not be located in a public right-of-way;
 - (iv) Not be used for commercial or business purposes other than agricultural;
 - (v) Not constitute a public or private nuisance;
 - (vi) Not be used for residential purposes for more than thirty (30) calendar days in any calendar year;
 - (vii) Not be used as a permanent dwelling; and
 - (viii) Meet Health Department requirements for sanitary waste disposal and water supply.
- (b) No unit shall be located, parked, or stored for a total period of more than thirty (30) days in any calendar year, on any parcel of land on which no permanent dwelling exists, unless located inside a barn, garage, or other enclosed structure conforming to all requirements of this Ordinance.
- (c) More than two (2) temporary housing units on a parcel of land shall require a land use permit.

- (d) The use of not more than five (5) temporary housing units may be permitted on a single parcel of property for a period of not to exceed ten (10) days in any calendar year with the prior permission of the Zoning Administrator.

Section 4.14 Structures Exempt from Land Use Permits and Setbacks Restrictions

Structures generally considered to be landscaping objects such as mailboxes, fences, sidewalks, and other similar objects shall be exempt from setback requirements and shall not require a Land Use Permit.

(amended January 14, 2020)

Section 4.15 Site Condominium Project

Site condominium projects consisting of not less than two condominium units are to be established in conformance with the Condominium Act, MCL 559.101 et. seq.; MSA 26.50(101) et. seq.; together with applicable sections of the Cleveland Township Zoning Ordinance. The allowable density of a site condominium project shall comply with the density required in the district where it is to be located.

Section 4.16 Site Plan Review

Site Plan Review and approval of all development proposals listed below is required by the provisions of this Section. All Site Plans must demonstrate compliance with all applicable zoning ordinances, overlay and land use district requirements. All single family residential developments are exempt from site plan review, except as noted in (a). below. The intent of this Section is to provide for consultation and cooperation between the developer and the Planning Commission so that both parties might realize maximum utilization of land and minimum adverse effects upon the surrounding land uses consistent with the requirements and purposes of this Ordinance. Through the application of the following provisions, the attainment of the aims of the Cleveland Township Comprehensive Development Master Plan will be assured and the Township will develop in an orderly fashion.

The Township Board shall have the final authority to approve, deny, or approve with conditions all development applications, upon recommendation by the Planning Commission which shall have review and recommending authority for such applications.

(a) **Uses Requiring Site Plan Review.**

A site plan shall be submitted to the Planning Commission for approval of any use in the Business-1, Business-2, Commercial Resort, Commercial Campgrounds, Recreational zones, and shall also be required in the following situations:

- (i) Any use or development for which the submission of a site plan is required by any provision of this Ordinance.
- (ii) Any development, except single-family residential, for which off-street parking areas are provided as required in this Ordinance.
- (iii) Any proposed multifamily or nonresidential use lying contiguous to or across a street from a single-family residential district and/or use or agricultural district and/or use.
- (iv) Any use except single-family residential which lies contiguous to a major thoroughfare or collector street.
- (v) All conditional uses in the agricultural and residential districts.
- (vi) All site condo and condominium subdivisions developed pursuant to the Condominium Act (MCLA 559.101 et seq).
- (vii) All other developments, except single family residences, in which ownership interests in land are transferred for the purpose of development of a physical structure and which do not fall under the requirements of the Subdivision Control Act of 1967 as amended (MCLA 560.101 et seq).
- (viii) All developments, roads, easements, driveways, including individual single-family homes, all areas identified by the Leelanau County Composite Wetland Area Map.
<https://www.leelanau.gov/landusemaps.asp>
- (ix) All additions to existing non-conforming uses.
- (x) All private access roads serving five (5) or more residential lots or units.

(b) **Application for Site Plan Review.**

An application for Site Plan Review shall be submitted to the Zoning Administrator. The detailed site plan presented for consideration shall contain all information required in this Ordinance.

- (i) Each submittal for Site Plan Review shall be accompanied by an application and site plan in the quantities specified in Section (g) below. The application shall at a minimum, include the following information:
 - 1) The applicant's name, address, and phone number in full.
 - 2) Proof of property ownership, and whether there are any options on the property, or any liens against it.
 - 3) A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.
 - 4) The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s).
 - 5) The address and/or property tax number of the property.
 - 6) Name and address of the developer (if different from the applicant).
 - 7) Name and address of the engineer, architect and/or land surveyor.
 - 8) Project title.

- 9) Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by this ordinance.
 - 10) A vicinity map drawn at a scale of 1"=2000' with north point indicated.
 - 11) The gross and net acreage of all parcels in the project.
 - 12) Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels.
 - 13) Project completion schedule/development phases.
 - 14) Written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools, and existing utilities) and on the natural environment of the site and adjoining lands.
- (ii) The site plan shall consist of an accurate, reproducible drawing at a scale of 1"=100' or less, showing the site and all land within 150' of the site. If multiple sheets are used, each shall be labeled and the preparer identified. Each site plan shall depict the following:
- 1) Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines and monument locations.
 - 2) Existing topographic elevations at two foot intervals, proposed grades and direction of drainage flows.
 - 3) The location and type of existing soils on the site and any certifications of borings.
 - 4) Location and type of significant existing vegetation.
 - 5) Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains and wetlands.
 - 6) Location of existing and proposed buildings and intended uses thereof, as well as the length, width, and height of each building.
 - 7) Proposed location of accessory structures, buildings and uses, including but not limited to all flagpoles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable.
 - 8) Location of existing public roads, rights-of-way and private easements of record and abutting streets.
 - 9) Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development. Details of entryway and sign locations should be separately depicted with an elevation view.
 - 10) Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing), fire lanes and all lighting thereof.
 - 11) Location, size, and characteristics of all loading and unloading areas.
 - 12) Location and design of all sidewalks, walkways, bicycle paths and areas for public use.
 - 13) Location of water supply lines and/or wells, including fire hydrants and shut off valves, and the location and design of storm sewers, retention or detention ponds, waste water lines, clean out locations, connection points and treatment systems, including septic systems if applicable.

- 14) Location of all other utilities on the site including but not limited to natural gas, electric, cable TV, telephone and steam.
- 15) Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.
- 16) Location, size and specifications of all signs and advertising features with cross sections.
- 17) Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.
- 18) Location and specifications for all fences, walls, and other screening features with cross sections.
- 19) Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its typical size by general location or range of sizes as appropriate.
- 20) Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
- 21) Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.
- 22) Identification of any significant site amenities or unique natural features.
- 23) Identification of any significant views onto or from the site to or from adjoining areas.
- 24) North arrow, scale and date of original submittal and last revision.
- 25) Seal of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the plan, if same is required to secure a building permit.
- 26) Deed restrictions, Master Deed restrictions, and bylaws as applicable, for Township review to insure that the condominium subdivision, or any use or development which requires site approval, its Master Association, and the applicant have provided for the continual maintenance of the development's services and facilities, to insure protection of the natural environment; compatibility with adjacent uses of land; and general upkeep of the subdivision's land in a socially and economically desirable manner.

(c) Site Plan Review and Approval Authorized.

- (i) The Planning Commission as specified in this Section, shall review and recommend approval to the Township Board, review and recommend to the Township board approval with conditions, or review and recommend denial to the Township Board of all site plans submitted under this Ordinance. Each site plan shall comply with the "Standards for Granting a Site Plan Approval" as described in Section 4.16, et seq., of this Ordinance. Each action taken with reference to site plan review shall be duly recorded in the official record of action by the Planning Commission. The Zoning Administrator shall forward any site plan received to the Planning Commission for review. Prior to any final decision, the Cleveland Township Planning Commission may seek the recommendations of the Leelanau County Inspections Department, Planning Director, appropriate community fire chief, the Leelanau County Road

Commission, Leelanau County Health Department, Leelanau County Drain Commissioner, the Michigan Department of Transportation, the Michigan Department of Natural Resources where applicable, and any other agency or official deemed necessary and having jurisdiction in the area of the proposed development. Such reports shall be taken under advisement by the Planning Commission for use in reviewing the Site Plan. A favorable report from any of the above entities shall not constitute grounds for automatic approval of any site plan if the Commission feels that additional information is required, or if the report fails to adequately assess any threats to the health and safety of Township residents, or threats to quality of the environment.

The Planning Commission may require additional review by independent environmental consultants or engineers, or legal counsel to be hired by the Township and paid for by the Applicant, to assess the likely impacts of the proposed development.

- (ii) Following approval of a site plan by the Township Board, the petitioner may apply for the appropriate County and/or State permits as may be required by said agencies and present appropriate plans and specifications as may be required by such agencies.

(d) Procedures for Submission and Review of Application for Major Projects.

- (i) Major Projects.

All developments ten thousand (10,000) square feet of structure or greater than ten (10) acres in size, are major projects which require preliminary site plan review by the Planning Commission pursuant to the requirements below. All other projects are either minor projects (see Section (e)) subject to review and recommended approval by the Planning Commission to the Township Board or amendments to existing site plans which are processed pursuant to the requirements in Section (m) below.

- (ii) Submission Requirement.

The applicant shall complete and submit the required number of copies of an application for Site Plan approval, site plans, and other information where applicable (see Section (g): Distribution of Required Copies and Action Alternatives). Compliance with the requirements of the Zoning Ordinance is mandatory. The applicant or his/her representative must be present at each scheduled review or the matter will be tabled for a maximum of two consecutive meetings due to lack of representation. After two meetings, reapplication for site plan review will be necessary. The procedure for processing major project site plans includes three phases: conceptual review via a pre-application conference, preliminary site plan review and final site plan approval.

- (iii) Pre-application conference.

During this conceptual review phase, a generalized site plan is presented by a prospective applicant for consideration of the overall idea of the development. Basic questions of use, density, integration with existing development in the area and impacts on and the availability of public infrastructure are discussed. This conference is scheduled by a prospective applicant with the Planning Commission and Zoning Administrator. At this meeting the applicant or his/her representative is also presented with the applicable procedures required

by the Ordinance for approval of the proposed development and with any special problems or steps that might have to be followed, such as requests to the Board of Appeals for a variance.

(iv) Preliminary Site Plan Review.

The second phase is called Preliminary Site Plan Review. At this step a preliminary site plan meeting is scheduled. This meeting will be handled as a public hearing and shall be subject to the provisions of P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq.). Verification of the Applicant's compliance with the submittal requirements of this Ordinance (see Section 4.16(g)) is reviewed by the Planning Commission, and the changes necessary, if any, for final site plan approval recommendation to the Township Board are indicated in writing to the applicant.

(v) Final Site Plan Review.

Final Site Plan approval recommendation to the Township Board shall be considered by the Planning Commission at a regular meeting. The Planning Commission shall indicate in writing that all requirements of the Ordinance, including those of other reviewing agencies within Cleveland Township, have been met, including any conditions that may be necessary. Where the applicant is dependent upon the grant of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals is necessary before final site plan approval can be granted. An approved site plan shall include a note referencing the case number and date of all variances granted.

(vi) Data submittal requirements shall be as specified in Section 4.16 (g)(vi) below.

(e) Procedures for Submission and Review of Application for Minor Projects.

(i) Minor Projects.

All developments less than ten thousand (10,000) square feet of structure, and ten (10) acres in size or smaller, are minor projects which may be reviewed by the Planning Commission pursuant to the requirements below. If the Planning Commission chooses to waive its rights to a review a proposed Site Plan, no fee shall be charged by the Township. All other projects are either major projects (see Section 4.16(d)) subject to review and approval by the Planning Commission or amendments to existing site plans which are processed pursuant to the requirements in Section 4.16(m) below.

(ii) Other Projects Eligible for Planning Commission Review as a Minor Project

The Planning Commission may review and approve the following site plans:

- 1) Accessory uses incidental to a conforming existing use where said use does not require any variance and where said site plan conforms with all the requirements of this Ordinance
- 2) Expansion and/or addition to an existing conforming use where said site plan conforms with all the requirements of this Ordinance and does not increase the size of the existing use or structure more than ten percent (10%) of the present size.
- 3) Accessory storage buildings in all Zoning Districts.

- 4) Increases in off-street parking areas, parking buildings and/or structures, increases in loading/unloading spaces in commercial and industrial Zoning Districts, and landscape improvements as required by this Ordinance.
 - 5) For those conditional land uses so specifically identified in this Ordinance.
 - 6) Private access roads serving five (5) or more residential lots or units.
 - 7) Amendments to approved site plans.
 - 8) Any other site plan review not delegated for review by the Planning Commission.
- (iii) The Planning Commission shall apply all applicable standards and procedures of this Ordinance in recommending to the Township Board to approve, conditionally approve, or deny site plans.
- (iv) Data submittal requirements shall be as specified in Section 4.16 (g)(vi) below.
- (f) **Planning Commission Report on Every Site Plan.**
The Planning Commission shall prepare a report of each and every site plan submitted in accordance with this section, containing a synopsis of the relevant facts contained in and related to this site plan, together with the Planning Commission's recommendation.
- (g) **Distribution of Required Copies and Action Alternatives.**
Where Site Plan Review is required by this Ordinance, an applicant for Site Plan Approval shall complete and submit three (3) copies of an Application for Site Plan Approval, site plans, and other information where applicable.
- (i) The Application for Site Plan Approval must be obtained from the Planning Commission. The applicant is asked to keep one copy for his/her records. The applicant shall return the original and two (2) copies of the application to the Planning Commission at least thirty (30) days prior to the next regularly scheduled meeting of the Planning Commission for the purpose of preliminary site plan review.
- (ii) At the same time the original and two (2) copies of the application are returned to the Planning Commission, the applicant shall provide for distribution an additional three (3) copies of the site plan for review by the local Fire Department, County Inspections Department, and Leelanau County Planning Department. Application fees as found in the Cleveland Township Fee Resolution must be paid when the application is submitted and sufficient escrow accounts must be established to cover the projected review costs.
- (iii) The applicant shall submit three (3) copies of the Application for Site Plan review and six (6) copies of the site plan for distribution to the following agencies: One (1) application and two (2) site plans to the County Road Commission; one (1) application and two (2) site plans to the County Drain Commission; and one (1) application and two (2) site plans to the Leelanau County Health Department. These agencies will keep the application and one (1) copy of the site plan. Upon delivery of the application and site plans; the applicant shall obtain a receipt from the agencies as proof of delivery or a stamped, signed site plan indicating no comment. Three (3) copies of the site plan, one from each agency, should be returned, with comments

from each agency, if any, to the Planning Commission. Without these copies, the site plan will not be processed.

- (iv) For preliminary review purposes, an application for major project Site Plan Reviews will be placed on the agenda of a regular meeting of the Planning Commission for discussion and action only after receipt of comments from State and County agencies, unless the site plan has been in possession of the reviewing agencies for thirty (30) days without review and/or comment.
- (v) The Planning Commission will consider all applications for site plan review submitted to it, for its recommendation to the Township Board for their approval, revision, or disapproval at a scheduled township board meeting:
 - 1) Upon determination of the Planning Commission that a site plan is in compliance with the Zoning Ordinance and other plans or regulations, it shall be so indicated on the site plan.
 - 2) Upon determination of the Township Board that a site plan is in compliance, except with minor revisions, said changes shall be so indicated. When these changes have been adequately provided, the petitioner shall resubmit the site plan to the Planning Commission for final site plan approval recommendation to the Township Board.
 - 3) If extensive revisions to the site plan are necessary to meet the Zoning Ordinance, and other applicable plans and regulations, the site plan shall be deemed 'incomplete' and the applicant requested to prepare an alternate site plan.
- (vi) Any site plans reviewed and recommended to the Township Board for approval by the Planning Commission pursuant to Section (v) and all final site plans shall have the same submittal requirements and action alternatives as for preliminary site plans described in the above requirements with the following exceptions:
 - 1) Three (3) copies of the final site plan and related information shall be submitted.
 - 2) Six (6) copies will be distributed to other reviewing agencies as determined necessary by the Planning Commission.
 - 3) Final action shall be taken within 30 days.
 - 4) Approval for final site plan shall be by the Township Board.
- (vii) When a site plan is reviewed and recommended to the Township Board for their approval or disapproval by the Planning Commission, and all steps completed, three (3) copies of the site plan will be marked by the Planning Commission for the following distribution:
 - 1) One (1) copy returned to the applicant signed by the Supervisor of the Township Board including any conditions of approval.
 - 2) One (1) copy forwarded to the County Inspections Department for filing.
 - 3) One (1) copy forwarded to the Planning Commission for filing.
- (viii) Seven (7) days after final Site Plan Approval by the Township Board, a building permit may be obtained subject to review and approval of the County Inspections Department.

- (ix) Failure to initiate construction of an approved site plan within 365 days of approval shall require the applicant to appear before the Planning Commission and demonstrate why the approval should not be revoked. After such an appearance, the Planning Commission may revoke a previously approved site plan for property on which no physical development activity has occurred upon making written findings that one or more of the following circumstances exist:
 - 1) an error in the original approval is discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency;
 - 2) zoning regulations applicable to the project have been changed and the previously approved site plan does not comply with them;
 - 3) a change in state law, local charter, or other local ordinance affecting the previous approval has occurred;
 - 4) pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as previously approved.

- (x) Thirty (30) days prior to expiration of an approved site plan pursuant to Section (viii) above, an applicant may make application for a one year extension of the site plan at no fee. The applicant shall explain in writing why the development has not proceeded, what the current time frame is and why an extension should be granted. The applicant shall present his/her case in person or by representative at the next meeting of the Planning Commission.

- (xi) Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner. The County Building Inspector shall also be notified to withhold any building permit until a new site plan is approved.

- (xii) Any subsequent re-submittal shall be processed as a new request with new fees, except for minor amendments pursuant to Section (xiii) below.

(h) Standards for Granting Site Plan Approval.

- (i) Each site plan shall conform to all applicable provisions of this Zoning Ordinance and the standards listed below:
 - 1) All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
 - 2) The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.

- 3) Site plans shall fully conform with the published surface water drainage standards of the County Drain Commission.
- 4) Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring property owners.
- 5) The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
- 6) All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.
- 7) Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.
- 8) There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.
- 9) All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of structural or plant materials no less than six feet in height.
- 10) Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.
- 11) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified by the County Road Commission.
- 12) All streets shall be developed in accordance with the Subdivision Control Act, described in MCL 560.101 et seq., and the County Road Commission specifications. All private access roads shall comply with the standards of Section 4(xxii), Private Access Roads.
- 13) Site plans shall fully conform with the driveway and traffic safety standards of the Michigan Department of Transportation and/or County Road Commission
- 14) Site plans shall fully conform with the applicable fire safety and emergency vehicle access requirements of the State Construction Code and/or local Fire Code
- 15) Site plans shall fully conform with the County Soil Erosion and Sedimentation Control Ordinance.
- 16) Site plans shall fully conform with the requirements of the Michigan Department of Public Health and the District Health Department.
- 17) Applicant shall also demonstrate that there will be no detrimental impact to surface water or groundwater from the proposed development. The Planning Commission may require review by an independent environmental consult, appointed by the Township and paid for by the applicant, to determine the likely impact of lakes, streams, or groundwater, and any other likely impacts on the environment from the proposed development.
- 18) Site plans shall fully conform with all applicable state and federal statutes.
- 19) Site plans shall conform to all applicable requirements of local, state and federal statutes and approval shall be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.
- 20) Projects in the Composite Wetlands Map Overlay district:

- a) Fill may not be used on the site to build a dwelling. Dwellings and accessory buildings must be on certified (EGLE or registered surveyor selected by the Township and financed by the property owner) upland sites.
- b) Driveways must be made of permeable materials. Fill may be used for driveways to a dwelling with fill not to exceed one (1) cubic yard per one (1) foot of driveway length on the most direct route possible from road to dwelling, with structures (e.g., culverts) if necessary to allow the flow of water, causing the least impact on wetlands.
- c) Fill shall consist of inert materials, which will not cause siltation nor contain soluble chemicals or organic matter, which is biodegradable. All fill shall be contained in such a manner as not to erode into any watercourse and/or wetland. All banks shall be stabilized with native wetland seed and lightly mulched (max 4-inches deep) as necessary to prevent erosion.
- d) Side-slopes adjacent to wetland areas shall be 3:1 or gentler.
- e) Construction materials must not harm the environment (e.g., no wood treated with toxic substances, uncured concrete)
- f) Installation of holding tanks, after securing necessary permits, must sit above the water table and be covered in native Michigan vegetation.
- g) Upon completion of the project, the disturbed wetland areas shall be restored to the original contour elevation, revegetated and reseeded with species native to Michigan appropriate to the site to prevent erosion.
- h) Lawn and plant fertilizer containing phosphorous shall not be applied.

(i) Conditional Approvals

- (i) The Planning Commission may recommend conditional approval of a site plan on conformance with the standards of another local, county or state agency, such as but not limited to a Water and Sewer Department, County Drain Commission, County Road Commission, State Highway Commission or Natural Resources Department. They may do so when such conditions:
 - 1) would insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity,
 - 2) would protect the natural environment and conserve natural resources and energy,
 - 3) would insure compatibility with adjacent uses of land, and
 - 4) would promote the use of land in a socially and economically desirable manner.
- (ii) The Planning Commission may conditionally approve a site plan for its conformance with fencing, screening, buffering or landscaping requirements of Section 4(xvii) of this Ordinance and may collect a performance guarantee consistent with the requirements of Section 4.16(xi) (below) to insure conformance. When so doing, the following finding shall be made and documented as part of the review process:

- 1) that such fencing, screening, buffering or landscaping would mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking or other similar impact on adjoining parcels;
- 2) that absent such conditions, the development would adversely affect the reasonable use, enjoyment and value of adjoining lands in light of similar benefits enjoyed by other properties in the area.

(j) **Conformity to Approved Site Plan Required.**

Following final approval of a site plan by the Planning Commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so is a violation of this ordinance and subject to the sanctions of Section 12.01.

(k) **Performance Guarantee Required.**

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety and welfare of the residents of Cleveland Township and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission, subject to Township Board approval, may recommend that the applicant to deposit a performance guarantee as set forth herein. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping, and widening strips.

- (i) Performance guarantee as used herein shall mean a cash deposit, certified check, irrevocable bank letter of credit or corporate surety bond in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the Cleveland Township Zoning Administrator subject to Township Board approval.
- (ii) When a performance guarantee is required, said performance guarantee shall be deposited with the Cleveland Township Clerk prior to the issuance of a building permit by the County Building Inspector for the development and use of the land. Upon the deposit of the performance guarantee the Cleveland Township Clerk shall deposit the performance guarantee, if in the form of a cash deposit or certified check, in an interest-bearing account to the applicant.
- (iii) An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the building permit.
- (iv) In the event the performance guarantee deposited is a cash deposit or certified check, the Cleveland Township Clerk shall rebate to the applicant fifty (50) percent of the deposited funds when sixty (60) percent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining fifty (50) percent of the deposited funds when one hundred (100) percent of the required improvements are completed as confirmed by the

Zoning Administrator. If a request is made by the applicant for a temporary certificate of occupancy without completion of required exterior improvements, the performance guarantee herein required may be applied by said applicant to assure compliance with the Zoning Ordinance standards and the specifications of the approved site plan.

- (v) Upon the satisfactory completion of the improvement for which the performance guarantee was required, as determined by the Zoning Administrator, the Cleveland Township Clerk shall return to the applicant the performance guarantee deposited and any interest earned thereon.
- (vi) In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Township, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was posted, the applicant shall be required to pay the Township the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited. Should the Township use the performance guarantee or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the Township's administrative costs in completing the improvement, with any balance remaining being refunded to the applicant. If the applicant has been required, prior to the Cleveland Township conditional approval, to post a performance guarantee or bond with another governmental agency other than Cleveland Township to insure completion of an improvement associated with the proposed use, the applicant shall not be required to deposit with the Township performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the Cleveland Township Clerk and prior to the issuance of a building permit, the applicant shall enter into an agreement incorporating the provisions herein with the Township regarding the performance guarantee.

(l) Operation Guarantee Required.

The Township Board, if so empowered by State or Federal Law, may require an appropriate guarantee to assure continued operation of any portion of use or a development which requires site approval.

(m) Amendments to Approved Site Plans.

- (i) Amendments to an approved site plan may be recommended to the Township Board by the Planning Commission provided that such changes conform to the Zoning Ordinance and the land owner agrees. Minor changes to an approved site plan may be approved by the Zoning Administrator after construction has begun provided no such change results in any of the following:
 - 1) A significant change in the use or character of the development.
 - 2) An increase in overall coverage of structures.

- 3) A significant increase in the intensity of use.
- 4) A reduction in required open space.
- 5) A reduction in required off-street parking and loading.
- 6) A reduction in required pavement widths or utility pipe sizes.
- 7) A significant increase in traffic on public streets or an increase in the burden on public utilities or services.

(ii) No fees shall be required for the following minor amendments:

- 1) Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved building(s). Relocation of building entrances or exits, or shortening of building canopies.
- 2) Changing to an equal or more restricted use provided there is no reduction in the amount of off-street parking as originally provided.
- 3) Changing the angle of parking or aisle width provided there is no reduction in the amount of required off-street parking or in reduction of aisle width below ordinance requirements.
- 4) Moving of ingress and egress drives a distance not more than 100 feet if required by the appropriate state, county and other local road authority with jurisdiction.
- 5) Substituting landscape plan species provided by a nursery, landscape architect, engineer or architect certifies the substituted species is similar in nature and screening effects.
- 6) Change type and design of lighting fixtures provided by an engineer or architect certifies there will be no change in the intensity of light at the property boundary.
- 7) Increase peripheral yards.
- 8) Changing the location of an exterior building wall or location not more than 10 ft because of a natural impediment or hazard such as bedrock or muck soils, provided that in so doing no setback requirement of the Ordinance is violated and no significant reduction in safety or in the amount of open space is thereby affected.

(iii) If the Zoning Administrator finds that a proposed amendment to an approved site plan does not qualify as a minor change, he or she shall immediately notify the permit holder, the County Building Inspector, and the Planning Commission in writing that site plan approval has been suspended pending approval by the Planning Commission, of the proposed amendment. The permit holder's notice shall be delivered by certified mail. If construction has begun, a stop work order shall be issued by the County Building Inspector for that portion of the project which is not in compliance with the Ordinance. Once site plan approval for a project has been suspended, the permit holder has the option of changing the project plans to conform with the Ordinance requirements, or of restarting the Site Plan Review process. When the issue has been resolved, the Zoning Administrator shall send a written notice to the permit holder, the County Building Inspector, the Planning Commission that the project's site plan has again been approved. This provision is not to be construed to prohibit phased development of a project, provided that each phase is developed in accordance with an approved site plan.

(n) Appeals of Final Site Plans

- (i) The recommendation of the Planning Commission is subject to final approval by the Township Board.
- (ii) Any person aggrieved by a decision of the Township Board in granting or denying approval of a final site plan may appeal the decision to the Zoning Board of Appeals. The appeal must be filed within seven (7) days of the decision and shall state the factual basis for the appeal. The decision date being specified as the date the meeting minutes are approved. An appeal shall stay action on the issuance of any permit pursuant to an approved site plan.
- (iii) The Zoning Board of Appeals shall review the record of action taken on the final site plan and shall determine whether the record supports the action taken. No new evidence shall be presented. The Zoning Board of Appeals shall approve the final site plan if the requirements of this Section and other applicable ordinance requirements are met. The Zoning Board of Appeals shall make written findings in support of its opinion on the appeal.

(o) As-Built Site Plan.

Upon completion of the installation of required improvements as shown on the approved site plan, the property owner shall submit to the Zoning Administrator three (3) copies of an "as built" site plan, certified by the engineer or surveyor, at least one week prior to the anticipated occupancy of any building. The Zoning Administrator shall circulate the as built plans among the appropriate departments for review to ensure conformity with the approved site plan and other County requirements. Once each department has approved the as built plans the Zoning Administrator may make the final inspection and issue the Occupancy Permit.

(p) Land Clearing.

Prior to site plan approval, no person shall undertake or carry out any such activity or use, including any grading, clearing and filling, excavating, or tree removal associated therewith for which site plan approval is first required by this Ordinance. Nor shall such activity commence prior to obtaining necessary soil erosion and sedimentation control permits, wetlands permits, or floodplains permits. Any violation of this provision is subject to the fines and penalties prescribed in Section 12.01 of this Ordinance for each day of the violation from the day of discovery of the incident until an approved restoration plan, or an approved site plan is granted.

(amended October 8, 2020)

Section 4.17 Landscaping, Screening, Greenbelts, Buffers, and Fencing

The intent of this section is to promote the public's health, safety, and general welfare by: minimizing noise, air, and visual pollution; improving the appearance of off-street parking and other vehicular use areas; requiring buffering between incompatible land uses; regulating the appearance of property abutting public rights-of-way; protecting and preserving the appearance, character, and value of the community and its residential neighborhood areas; preventing soil erosion and soil depletion; and, promoting soil water retention.

(a) **Application.**

These requirements shall apply to all conditional uses and uses for which site plan review is required under Section 4.16. No site plan shall be approved unless said site plan shows landscaping, greenbelts, buffers, and screening consistent with the requirements set forth herein.

(b) **Definitions**

For purposes of this section, the following definitions shall apply:

- (i) Berm signifies a raised form of earth to provide screening or to improve the aesthetic character.
- (ii) Buffer means a strip of land, including plantings and/or structures, which may be required to protect or screen one type of land use from another, or to minimize or eliminate conflicts between them.
- (iii) Fencing refers to a barrier constructed of materials identified in Section (xiii) of this Section that conceals from view from public ways the area behind it.
- (iv) Greenbelt denotes a dedicated landscaped area.
- (v) Landscape consists of a combination of plant materials, topography, and other natural physical elements in relation to one another and to man-made structures.
- (vi) Screening is a structure or planting that conceals from view from public ways the area behind such structure or planting. Examples of screening include a landscape buffer, solid fencing, or other materials as specified in Section (iv), (v), (vi) and (xi) of this Section.

(c) **Landscape Plan Required**

A separate detailed landscape plan having a minimum scale of 1"=100' shall be required to be submitted as part of a site plan review. The landscape plan shall include, but not necessarily be limited to, the following items:

- (i) Location, spacing, size, and root type (bare root, BR, or balled and burlaped, BB) and description for each plant type proposed for use within the required landscape area.
- (ii) Existing and proposed contours on-site and 150 feet beyond the site at intervals not to exceed two (2) feet.
- (iii) Typical straight cross-section including slope, height, and width of berms and type of ground cover including trees, or height and type of construction of walls or fences, including footings.
- (iv) Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.
- (v) Planting and staking details in either text or drawing form to ensure proper installation and establishment of proposed plant materials.
- (vi) Identification of existing trees and vegetative cover to be preserved.
- (vii) Identification of grass and other ground cover and method of planting.
- (viii) Identification of landscape maintenance program including a statement that all diseased, damaged, or dead materials shall be replaced in accordance with standards of this Ordinance.

(d) Screening Between Land Uses.

- (i) Upon any improvement for which a site plan is required, screening shall be constructed at least six (6) feet in height along all adjoining boundaries with residentially zoned or used property. Either a landscape buffer or solid wall may be used as provided below, or when the distance between structures or adjoining lots is greater than twice the minimum setbacks would require, a fence meeting the requirements of Section (k) may be required at the discretion of the Planning Commission. A landscape buffer may consist of earthen berms - and/or living materials so as to maintain a minimum opacity of at least eighty (80) percent. Opacity shall be measured by observation of any two (2) square yard area of landscape screen between one (1) foot above the established grade of the area to be concealed and the top or the highest point of the required screen. The plantings must meet this standard based upon reasonably anticipated growth over a period of three (3) years. The applicant shall agree in writing to install solid fencing after the expiration of thirty-six (36) months, in the event that the landscaping has not totally blocked the view of areas required to be screened.
- (ii) Where there is a need to provide a greater noise or dust barrier or to screen more intense development, a solid wall shall be required. Such wall shall be six (6) feet or more in height as measured on the side of the proposed wall having the higher grade, and shall be constructed on both sides with face brick, poured-in-place simulated face brick, pre-cast brick panels having simulated face brick, stone, wood, other decorative masonry material, or other approved materials.

(e) Parking Lot Landscaping.

Separate landscaped areas shall be required either within or at the perimeter of parking lots. There shall be one (1) tree for every eight (8) parking spaces, and a minimum landscaped space within any designated parking area of fifty (50) square feet. A minimum distance of three (3) feet shall be established between proposed tree or shrub plantings and the backside of the curb or edge of the pavement.

(f) Greenbelt Buffers.

- (i) A strip of land with a minimum width determined by the front yard setback of its zoning classification shall be located between the buildable area and the abutting right-of-way of a public street or major thoroughfare, and shall be landscaped with a minimum of one (1) tree which shall have a height of twelve (12) feet or a minimum caliper of 2 1/2 inches at the time of planting for each thirty (30) lineal feet, or major portion thereof, of frontage. The remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs, and/or other natural, living, landscape material.
- (ii) Access ways from public rights-of-way through required landscape strips shall be permitted, but such access ways shall not be subtracted from the lineal dimension used to determine the minimum number of trees required unless such calculation would result in a violation of the spacing requirement set forth in this section.

(g) Site Landscaping.

- (i) In addition to any landscape greenbelt and/or parking lot landscaping required by this section, ten (10) percent of the site area, excluding existing thoroughfare right-of-way, shall be landscaped.
- (ii) Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be included as a portion of the required landscaped area not to exceed five (5) percent of the site area.

(h) Minimum Size and Spacing Requirements.

Where landscaping is required, size and spacing shall be addressed in the site plan.

(i) Landscape Elements.

The following minimum standards shall apply:

(i) Quality.

Plant material and grasses shall be of generally acceptable varieties and species, free of insects and diseases, hardy to Cleveland Township, conform to the current minimum standard of the American Association of Nurserymen, and shall have proof of any required governmental regulations and/or inspections.

(ii) Composition.

A mixture of plant material, including evergreens and/or deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement.

(iii) Berms.

Berms shall be constructed with slopes not to exceed a 1:3 gradient with side slopes designed and planted to prevent erosion, and with a rounded surface a minimum of two (2) feet in width at the highest point of the berm, extending the length of the berm. Berm slopes shall be protected with sod, seed, shrubs or other form of natural ground cover.

(iv) Existing Trees.

- 1) If existing plant material is labeled "To Remain" on site plans by the applicant or is required by the Township, protective techniques, such as, but not limited to, fencing or barriers laced at the drip-line around the perimeter of the plant material shall be installed during construction. No vehicle or other construction equipment shall be parked or stored within the drip-line of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the Township.
- 2) In the event that healthy trees which are used to meet the minimum requirements of this Ordinance or those labeled to remain are cut down, destroyed, damaged, or

excavated at the drip-line, as determined by Cleveland Township, the Contractor shall replace them with trees which meet Ordinance requirements.

(v) **Installation, Maintenance, and Completion.**

All landscaping required by this Ordinance shall be planted prior to obtaining a Certificate of Occupancy. In cases where occupancy is necessary prior to fulfillment of the landscaping requirements, an irrevocable bank letter of credit and/or certified check shall be placed in escrow in the amount of the cost of landscaping to be released only after landscaping is completed.

(j) **Installation and Maintenance.**

- (i) All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workmanlike manner and according to accepted good planting and grading procedures.
- (ii) The owner of property required to be landscaped by this Ordinance shall maintain such landscaping in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced within one (1) year of damage or death or during the next appropriate planting period, whichever comes first. All landscaped areas shall be provided with a readily available and acceptable water supply.

(k) **Fencing and Screening.**

Unless otherwise specified or determined by the Planning Commission or Zoning Board of Appeals, fencing and screening is to be six (6) feet in height. Gateposts and other superstructures over site entrances and exits may be up to twelve (12) feet in height. Fencing and structured screening materials of a height greater than three (3) feet are not to be located within a required front setback or side setback adjacent to a street.

(i) **Mechanical Equipment:**

(This Section does not apply to single-family residential uses.) When located outside of a building, support equipment including air conditioning and heating devices, water and gas meters, but not including plumbing or exhaust vents, or chimneys, are to be screened to the height of the particular piece of equipment, as follows:

1) **Roof-Mounted Equipment:**

To be screened by architectural features from the view of abutting streets and parcels.

2) **Equipment at Grade:**

When located on the ground adjacent to a building, mechanical equipment is to be screened by landscaping, a solid wall or fencing from the view of the street or surrounding properties.

(ii) **Outdoor Storage:**

To be screened on all sides by a solid wall or fencing.

(iii) Public Utility Substations:

To be screened on all sides by a solid wall or fencing, and landscaping.

(iv) Side and Rear Lot Lines:

The side and rear property lines of all non-residential uses are to be screened as follows:

1) Adjacent to a Residential Use or Zone:

See requirements of Section (d) above.

2) Industrial and Commercial Zones:

A solid wall or fencing is to be located on the side and rear property lines of any site within an Industrial or Commercial zone that abuts another zoning district or land use.

(v) Swimming Pools:

Yard areas with private swimming pools are to be fenced to discourage unsupervised access and use by small children. Such fencing is to be a minimum of four feet high, and equipped with a self-closing and self-latching gate. Latching devices are to be located at a minimum height of four feet. Such fencing may be omitted where building walls without doorways abut the pool area, provided that the entire perimeter of the pool area is secured.

(l) Exceptions to Fencing and Screening Requirements.

(i) Buildings Abutting Property Lines:

Required screening or fencing may be omitted along any lot line where a building wall exists immediately abutting the lot line.

(ii) Location Adjustment:

Where property line fencing or screening is required, the location may be adjusted so the fencing may be constructed at or within the setback line, provided the areas between the fence and the property lines are landscaped, or in rural areas, retained in their natural vegetative state at the discretion of the Planning Commission.

(iii) Existing Screening:

Any fence, screen, wall or hedge which does not conform to the provisions of this section and which is legally existing at the effective date of this Ordinance may be continued and maintained, provided there is no physical change other than necessary maintenance and repair in such fence, screen, wall, or hedge except as permitted in other sections of this Ordinance.

(iv) Planning Commission Modification:

Any of the requirements of this section may be waived or modified through Site Plan approval, provided the Planning Commission first makes a written finding that specifically identified characteristics of the site or site vicinity would make required fencing or screening unnecessary or ineffective, or where it would impair vision at a driveway or street intersection.

(v) **Zoning Board of Appeals:**

The Zoning Board of Appeals may require or waive any fencing, screening, landscaping or buffering as may be provided for in this section as a condition of a variance or other authorization in whatever manner only if necessary to achieve an identified public purpose. The Zoning Board of Appeals shall record the reason for the condition and clearly specify what is required in any approval granted.

(m) **Materials for fencing and screening may consist of the following:**

- (i) Solid board fences with wood posts not less than four inches by four inches (4" x 4") and solid board cover not less than one (1) inch thick. Masonry piers may be substituted for wood posts. Posts or piers shall be spaced not more than eight (8) feet apart on center. The finished side of the wood shall face abutting properties. Stockade type fencing is not permitted.
- (ii) Wrought iron, open mesh or slatted fencing, provided that the ratio of one part open to six parts of solid fencing is not exceeded.
- (iii) Masonry walls designed and constructed to facilitate maintenance and not modifying natural drainage in such a way as to endanger adjacent property. Such wall shall be constructed on both sides with face brick, poured-in-place simulated face brick, pre-cast brick panels having simulated face brick, stone, or other decorative masonry material.

(n) **Barrier fences.**

Barrier fences containing barbed wire, electric charges or sharp materials at the top of fence or wall less than six (6) feet in height are prohibited unless needed to protect the public safety and approved by the Planning Commission.

(o) **Fire Hazard.**

No fence shall be approved which constitutes a fire hazard either of itself or in connection with the existing structures in the vicinity, nor which will interfere with access by the Fire Department to buildings threatened by fire, or which will constitute a hazard to street traffic or to pedestrians.

Section 4.18 Planned Unit Development (PUD)

(a) **Purpose and Scope**

The purpose and scope of this Section 4.18 is to specify the procedures required for application, review and approval for planned unit developments; to provide for a preliminary and final PUD Plan process; to provide for a preliminary and final PUD Plan process for each phase, in sequential order, for phased PUD developments; to specify the review and approving authorities of planned unit development requests; to specify the conditions which create planned unit development eligibility, the participants in the review process, and the requirements and standards upon which applications will be judged and approval granted; as per the defined Planned Unit Development and their

associated purposes stated under MCL 125.3503, Public Act 110 of 2006, Michigan Zoning Enabling Act.

(b) **Planned Unit Development Applicable Districts**

Planned Unit Developments are applicable in the following districts: Recreational District.

(c) **Authority**

The Township Board shall have the final authority to approve, deny, or approve with conditions PUD applications, upon recommendation by the Planning Commission which shall have review and recommending authority for PUD applications.

(d) **Qualifying conditions**

In order to qualify for PUD consideration, the following conditions shall be met to the satisfaction of the Planning Commission:

(i) Recognizable benefits:

The PUD shall result in recognizable and substantial benefits to the ultimate users of the project and to the community, where such benefits would otherwise be unlikely to be achieved under the regulations of the underlying zoning districts.

The following benefits shall accrue from the PUD:

- 1) The maintenance of significant recreational opportunities and a high level of environmental quality.
- 2) The long-term protection and preservation of open space, valuable natural resources, and wildlife habitat.
- 3) The efficient use of land, arrangement of utilities, and design of traffic circulation systems including limitations on the number of vehicular access points along the existing road network, thus minimizing traffic conflicts while satisfying emergency needs.
- 4) The siting of structures so as to preserve important visual, ecological, recreational, and agricultural resources.
- 5) Protection and preservation of the existing natural and rural character and appearance of the Township, as viewed from roadways and public open spaces, through appropriate siting and setback of new structures along road corridors.

The following benefits shall accrue from the PUD unless waived by the Planning Commission, and such waiver is subsequently upheld by the Township Board:

- 6) A heightened level of residential amenities to serve residents of the PUD, such as playground areas, hiking trails, tennis courts and other outdoor recreational facilities.
- 7) The separation of new residential development areas from active agricultural operations to minimize conflicts between these uses while allowing for the continuation of farming activities.
- 8) A harmonious variety of housing types within a single development project including affordable housing.

(ii) Site Area and Control.

The minimum site area necessary to be considered for a PUD shall be eighty acres (80) unbroken by any public road or thoroughfare. Any proposed development in excess of 80 acres may include lands broken by public road or thoroughfare as long as such lands are within the same zoning district. The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with the Ordinance and the specifications of the PUD approval. This provision shall not prohibit a transfer of ownership or control, upon due notice to the Township Zoning Administrator.

(iii) Mixed use.

The PUD shall consist of at least any two uses to qualify for consideration, and one use shall be an outdoor recreational use.

(iv) Master Plan

The PUD shall be in keeping with the Cleveland Township Master Plan.

(e) **Permitted Uses**

Any land use permitted by the underlying Recreational zoning district shall be permitted in a PUD as a principal use, provided the public health, safety and welfare are not impaired and the essential character of the proposed PUD meets its general intent. Uses permitted by the underlying district may be permitted as part of a PUD in the same proportions as the underlying district, though variations may be approved by the Planning Commission, or granted through bonuses detailed in Section 4.18, et seq.

(f) **Project design standards**

PUDs shall comply with the following project design standards:

(i) General site development requirements and variations.

1) Base standards:

The site development standards of the underlying district shall be the base from which variations will be considered.

2) Variation allowed by the PUD:

To encourage flexibility and creativity consistent with the PUD intent, the Planning Commission may vary the base standards of the underlying zoning district for any, or all, of the specific uses and facilities proposed to be part of the PUD. Each of these allowed variations shall result in a higher quality of development than would be possible without them. These variations will only be approved on the condition that recognizable and substantial benefits are recognized by the Planning Commission. The variations could be in lot area and dimensions, density, lot coverage, setbacks, parking, loading, landscaping and screening, road widths, and similar requirements. Uses permitted shall not be varied from the underlying district. Density standards shall not be varied by more than the maximum permitted under the bonus provisions outlined in Section 4.18, et seq.

(ii) Calculation of PUD Base Density Allowed.

The allowable base density within a PUD shall be calculated as one (1) unit per one (1) acre of total site area, after deduction of the area of existing road right-of-ways and paved parking areas. Within a PUD the following are defined as one unit:

- 1) one single family dwelling
- 2) one multiple family dwelling
- 3) four motel and/or hotel unit dwellings intended for rental
- 4) Each 20,000 square feet of indoor recreation use
- 5) Each 2,000 square feet of floor area for any permitted use in the underlying district other than the four uses listed directly above. Outdoor recreational uses as listed under Section 4.18, et seq. accessory buildings and structures allowed within open space under Section 4.18, Section et seq., and the existing airstrip surface are not included in the base density calculation.

(iii) Density Bonus Standards

The following density bonuses, upon the base density calculation, shall be granted to the PUD if the Planning Commission finds that the density bonus standards are met, and the finding is subsequently approved by the Township Board. The bonuses will accrue in the designated percentages only and may be cumulative.

- 1) Preferred site development standards: a 10% increase over allowable base density shall be granted if the development meets all of the following design standards:
 - a) Preservation of existing slopes and vegetation to the maximum extent practical
 - b) Preservation of natural drainage patterns
 - c) Clear and cohesive building design concept throughout the development
 - d) Natural building façade materials (wood, stone or substitutions acceptable to the Township)
 - e) Inclusion of recognized traffic calming measures (e.g. chicanes, chokers, neckdowns, raised crosswalks, etc.)
 - f) Convenient pathways to facilitate pedestrian circulation
- 2) Retention of downhill ski slopes: a 15% increase over allowable base density shall be granted if the development retains a downhill ski component that provides for a range of downhill skiing slopes from beginner to expert experience levels. To accrue this bonus, there must be a performance guarantee to provide for operational ski lifts and other guarantees acceptable to the Township that the slopes will operate for a minimum of one (1) year.
- 3) All projects within the Scenic Viewshed Preservation Overlay District must comply with Section 4.27 of the Cleveland Township Zoning Ordinance.
- 4) Village style center: a 10% increase over allowable base density shall be granted if the development includes a village center that meets the following:
 - a) a minimum of five (5) retail, convenience, restaurant, food service, or similar variety of businesses
 - b) inclusion of streetscape elements (street trees, sidewalks, street lights, street furniture)

- c) inclusion of an open air public (or semi-public) amenity such as public art, skating rink, amphitheater, or similar amenity
- d) integration of two or more uses in the village area (lodging, residences, commercial, recreation)
- e) no or minimal building setbacks
- f) a majority of businesses to have separate, exterior accesses
- g) human scaled buildings, doorways, and signage
- h) a pedestrian-friendly village center
- i) easy walkability from a majority of lodging units in the development

(iv) Open Space Requirements

1) Minimum area Requirements

The minimum designated open space for a PUD in the Recreational District is 40% of the project site.

2) Character of Designated Open Space:

- a) Wetlands, ponds, steep slopes, and unique environmental features may be regarded as open space.
- b) Golf courses, ski slopes, greenways and trailways, required buffer zone, snowmobile trails and other outdoor recreational land uses may be regarded as open space.
- c) Up to 100 square feet of accessory buildings and structures related to the recreational uses, per designated acre of open space, may be regarded as open space.
- d) Roads and road rights-of-way or road easements; airplane landing strips; required front, side, and rear yards of buildings; hard-surfaced recreational facilities such as tennis and basketball courts shall not be regarded as designated open space.

3) Irrevocable Restrictions: The required open space shall be set aside by the owner/applicant by irrevocable restrictions on the future use of the designated open space. Such restrictions shall include recorded deed restrictions, protective covenants, and/or conservation easements. (See MCL 324.2140 - 324.2143; PA 451 of 1994 Natural Resources and Environmental Protection Act.). At the Township's discretion, any conservation easement may be managed by a third party. The irrevocable restrictions shall:

- a) Provide for the privately-owned open space to be maintained by private property owners with an interest in the open space, and provide for assessment of the private property owners by the Township for the cost of maintenance of the open space in the event that it is inadequately maintained or becomes a public nuisance.
- b) Provide maintenance standards and a maintenance schedule.

Designated open space may, at the township's sole discretion, but with the consent of the developer or developer's successor, be modified or amended with approval by both the Planning Commission and the Township Board, keeping in mind the intent and purpose for irrevocable restrictions relating to open space

(g) Application: Preliminary PUD Plan

(i) Optional pre-application conference.

The applicant may request a pre-application conference with the Zoning Administrator, and a representative of the Planning Commission designated by the chairman, prior to submission of an application. The purpose of the meeting will be to inform the Zoning Administrator and the Planning Commission of the applicant's intent and to determine whether the minimum eligibility requirements for a PUD are satisfied, and to provide the potential applicant with information regarding land development policies, procedures, standards and requirements of the Township as they might bear on the proposed PUD. At the pre-application conference the applicant may present a general sketch plan of the proposed PUD, which provides overview of the proposed project.

(ii) Application Submittal

An application for a PUD shall be submitted to the Zoning Administrator. Seven (7) copies of the application shall be submitted. The application shall be submitted by the owner, or the owner's authorized agent, to the Zoning Administrator who shall review the materials. The application is to be accompanied by payment of a non-refundable fee as established from time to time by resolution of the Township Board.

(iii) Application Contents

Each application form shall contain, as a minimum

- 1) The applicant's name, mailing address for receipt of notices, and phone number
- 2) A copy of an up to date (within 90 days of the date of application) owner's title policy or title commitment evidencing the applicant as the owner of record, and whether there are any options on the property, or any liens against it.
- 3) A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.
- 4) The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s).
- 5) Name and address of the developer (if different from the applicant)
- 6) Name and address of the engineer, architect, and/or land surveyor.
- 7) Project Title
- 8) The address and full legal description of the lot(s) on which the PUD is to exist, including property tax numbers.
- 9) Listing of names and addresses of all lot owners located within three hundred (300) feet of the lot lines on which the proposed PUD is to exist.
- 10) Development plans and mapping drawn to scale and including:
 - a) Existing Conditions.
Description of existing conditions including site topography, drainage patterns, unbuildable areas, floodplains, woodlands and other vegetated areas, existing land use and structures, existing zoning and such other information as may have a relationship to the subject property. The number of acres broken down into buildable areas, unbuildable areas (i.e. ponds, lakes, streams, wetlands and dunelands) and areas of public road right-of-way shall be part of the description.
 - b) Proposed conditions.

- i) Location, number, floor area and height of any proposed residential units; site data, including tabulation of the total number of gross acres in the project, the acres to be devoted to each of the uses and open space, and any density calculations and an explanation of how density calculations were derived; location height and approximate floor area of non-residential uses; and approximate number of acres to be occupied by each specific use
- ii) Approximate road and utility locations and sizes
- iii) Generalized grading and drainage plans showing major cuts and fills and how and where drainage will be accommodated
- iv) Number of acres and the location of areas to be preserved as open space under the requirements of Section 4.18, et seq.
- v) Description of the uses to be made of common open space and common facilities along with a general description of proposed maintenance and operation, proposed ownership and response to the requirements in Section 4.18 Section (vi), et seq.
- vi) Illustration of the proposed character of the development and the concepts and relationships of the buildings to each other, to roads, to parking and to common open space areas and the proposed architectural style
- vii) Generalized landscaping plans
- viii) Generalized plans for signage and lighting including the location, size, and character of signs and the type and character of lighting proposed.

11) Clarification of administrative issues including:

- a) Any requested variations from underlying zoning district standards and the rationale for approval of said variations
- b) Plan for the timing and phasing of development within the PUD Plan
- c) Statement of the covenants or other restrictions proposed for the regulation and governance of the development within the PUD Plan
- d) Listing of other governmental approvals that are required or pending and the status of these approval processes
- e) Summary of the expected impacts of the PUD and the measures proposed to mitigate such impacts including traffic; environmental, etc.

(iv) Waivers

Any application requirements that are determined not applicable to a specific project, by both the Zoning Administrator and a member of the Planning Commission designated by the chairperson, may be waived.

(h) Review and Approval: Preliminary PUD Plan

(i) Transfer of Application.

After confirming that the application is complete (and in accordance to Section 4.18 Section (vii), et seq.), the Zoning Administrator shall forward copies of the complete application to the Planning Commission for review and recommending action.

(ii) Public Hearing.

After receipt of the completed application, the Planning Commission shall hold a public

hearing. Notice of the public hearing shall be given in the manner provided for in the Michigan Zoning Enabling Act, MCL 125.3103 of PA 110 of 2006.

(iii) Review Action

The Planning Commission may require additional reviews by independent attorneys, consultants or engineers, to be hired by the Township and paid for by the Applicant to assess the likely impacts of the proposed PUD.

The Planning Commission shall review the Preliminary PUD Plan application, public hearing comments, other professional reviews if applicable, comments from the Township Attorney and Zoning Administrator if applicable, and appropriate state and county agencies if applicable.

1) Approval standards.

A Preliminary PUD Plan for a proposed PUD shall not be approved unless it conforms with the following standards:

- a) All elements of the PUD shall be harmoniously and efficiently organized in relation to existing topography and the character of the adjoining property. The PUD shall be developed so as not to impede the normal and orderly use, development or improvement of surrounding property.
- b) The landscape and contours shall be generally preserved, in so far as practical. The PUD shall fully comply with the requirements and standards of the Leelanau Conservation District and the Leelanau County Drain Commission regarding grading, drainage, and soil erosion control (see also Section 4.18. Section (viii), et seq.)
- c) The design of the PUD shall provide reasonable visual and sound privacy for all dwelling units surrounding the development, including appropriate perimeter setbacks and screening. Fences, walls, screening, green belts, buffers and landscaping shall be used as appropriate and shall conform to the requirements of Section 4.17.
- d) The configuration of buildings, driveways, and other improvements shall permit emergency access by some practical means. Every structure or dwelling unit shall have access to an approved street, walkway, or other area dedicated to common use.
- e) Loading docks and outside storage areas, including storage of trash, shall not be visible from residences or streets.
- f) Signage, lighting, and building materials shall reflect an integrated development. Exterior lighting shall be arranged so that it is deflected downward and away from adjacent properties and streets.
- g) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. All private streets and roads shall conform to the requirements of Section 4.22.
- h) The proposed PUD shall present evidence of the ability to comply with all necessary regulations and permits from other applicable regulatory bodies to the satisfaction of the approving authorities.
- i) All utilities serving a PUD, including electric, telephone, and cable television lines, and natural gas and propane gas lines, shall be placed underground.

- 2) Phasing.
Where a project is proposed for construction in phases, it shall be so designed that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities and open space, and shall contain the necessary components to insure protection of natural resources and the health, safety and welfare of the users of the PUD and residents of the surrounding area. Development phasing may be required to ensure that substantial recreational uses are completed to coincide with each stage of development of non-recreational uses.

- 3) Conditions.
The Planning Commission, and Township Board, may attach conditions to the approval of a Preliminary PUD Plan when such conditions:
 - a) Will result in the maintenance of significant recreational opportunities.
 - b) Are necessary to insure that public services and facilities affected by the PUD will be capable of accommodating the increased service and facility loads caused by the PUD.
 - c) Will protect the natural environment and conserve natural resources.
 - d) Will ensure compatibility with the adjacent uses of land.
 - e) Will promote the use of land in a socially and economically desirable manner.

(iv) **Recommending Action**

The Planning Commission shall make a recommendation, to approve, deny, or approve with conditions the Preliminary PUD Plan, to the Township Board within ninety (90) days of receipt of a full application. If the Planning Commission fails to take action, the application will be automatically referred to the Township Board for their action.

(v) **Township Board Action**

The Township Board will review the recommendation and take final action on the Preliminary PUD plan. The Township Board shall approve, deny, or approve with conditions the Preliminary PUD Plan in accordance with Section 4.18 Section (viii), et seq.

(i) Final PUD plan application and review procedures.

(i) **Final PUD Plan Application Submittal**

A Final PUD Plan application must be submitted by the applicant within twenty four (24) months following approval of the Preliminary PUD Plan. If no Final PUD Plan application is accepted within this period, approval of the Preliminary PUD Plan is automatically rescinded and the underlying zoning will take effect. However, the Township Board, upon written agreement with the applicant, may extend the Preliminary PUD Plan for successive twenty four (24) month periods. A final PUD Plan Application may be approved in phases, with phases in sequential order and as defined in the approved Preliminary PUD Plan, where each phase may be submitted and approved as a final PUD Plan for that phase.

(ii) **Application**

A Final PUD Plan, which satisfies the application requirements of Section 4.16 (b), et seq,

shall be submitted to the Zoning Administrator. The application is to be accompanied by payment of a non-refundable fee set by the Township Board. The Zoning Administrator shall review the materials to determine whether they are complete.

(iii) **Transfer to the Planning Commission**

When the application is determined to be complete, the Zoning Administrator shall forward the Final PUD Plan to the Planning Commission for review and action.

(iv) **Substantial Compliance**

Upon receiving the Final PUD Plan, the Planning Commission will deem whether the Final PUD Plan is in substantial compliance with the approved Preliminary PUD Plan. Substantial compliance shall mean the following:

- 1) The number of residential living units has not increased from the approved amount in the Preliminary PUD Plan.
- 2) The floor area of non-residential uses has neither been increased by more than 5% nor has the gross floor area of any individual building been increased by more than 10% from that approved in the Preliminary PUD Plan.
- 3) There has been no increase in the number of stories in any building.
- 4) Open space has not been decreased or altered to change its original design or intended use
- 5) All conditions attached to the Preliminary PUD Plan by the Township Board have been incorporated into the Final PUD Plan.

(v) **Lack of Compliance**

If the Final PUD Plan is deemed by the Planning Commission not to be in substantial compliance with the Preliminary PUD Plan, the project may be resubmitted as a new Preliminary PUD Plan.

(vi) **Simultaneous submittals.**

Applicants may combine the Preliminary PUD Plan and the Final PUD Plan approvals for review by the Planning Commission by submitting all information required for both simultaneously.

(vii) **Land Division.**

The division of the land embodied in the approved Final PUD Plan shall comply with the requirements set forth in Section 4.15 and Section 4.19.

(viii) **Review and Action**

The Final PUD Plan shall be reviewed and action taken by the authorized bodies following the procedures and approval authority for a Major Project Site Plan Review under Section 4.16, including the provisions for operation guarantee, amendments to approved site plans and appeals of final site plans. The applicant will adhere to the distribution of required copies of the final PUD plan as cited in Section 4.16.

(j) **Failure to Perform**

An approved Final PUD Plan shall become null and void if significant site development and/or construction of the first building has not been initiated within twenty four (24) months after the approval of the Final PUD Plan, and the applicant has not received a

written extension from the Cleveland Township Board. If a Land Use Permit has been issued, the Leelanau County Building Inspector and Leelanau County Health Department shall be notified to withhold any permits until a new site plan is approved.

(amended January 14, 2020)

Section 4.19 Subdivision Control Act

Deleted

Section 4.20 Lake and Shoreline Usage

At the time of enactment of this ordinance, multiple jurisdictions are in the process of developing a unified approach to the regulation of shoreline development. At such time as this effort produces an acceptable model ordinance, the Cleveland Township Planning Commission will review the recommendations and determine its adoption.

The following ordinance is intended to regulate shoreline development in the interim.

(a) **Intent:**

In its deliberations and studies leading to the adoption of this section, the Township Planning Commission and Township Board recognized and concluded that the use of water resources, including the inland lakes situated in the Township, should be considered in a framework of long term costs and benefits to the Township, in that it is desirable to retain and maintain the physical, cultural and aesthetic characteristics of lakes in the Township. It has been recognized that, as shorelines of the lakes become further developed and subjected to human and mechanical influence, usage of the respective property must be regulated in order to preserve and protect both riparian owners as well as the Township and non-riparians as a whole. It is further recognized that the lack of regulation shall result in a nuisance condition and impairment of these important and irreplaceable natural resources. It shall further result in the diminution of property values and threaten the public health, safety and welfare of all persons making use of lakes within the Township and properties adjacent to the lakes in the Township. Accordingly, it is the intent and purpose of the Township Board to adopt reasonable regulations of land, ingress and egress of watercraft and human usage of these resources in the Township. This section applies to such development occurring after June 14, 1994.

(b) **Regulations:**

(i) Shared Frontage

When more than one family shares lake-frontage, such common usage and/or ownership of the waterfront shall be governed by this Section. The provisions herein shall apply regardless of whether access to the waterfront is gained by easement, common or joint fee ownership, lease, license, site condominium unit, stock or membership in a corporation, or any other means.

A site plan for such shared waterfront which clearly defines the area(s) shared, the location of the areas described below, and the legal nature of the sharing relationship,

shall be submitted to the Cleveland Township Planning Commission pursuant to the site plan review provisions of this zoning ordinance.

Lots or parcels having shoreline frontage and which do not contain any dwelling units may be used for shared water access provided the lot or parcel has a minimum frontage on the water of not less than 100 feet measured at the water's edge, and in addition shall have an area of 30,000 square feet or the minimum area and dimensions required by the zoning district in which located, whichever is greater.

For each family in excess of two having a recorded, undivided interest in waterfront privileges, the frontage shall be increased by 50 feet and the area increased by 10,000 square feet.

Provisions shall be made for one (1) off-street space for parking of vehicles for every family having waterfront usage. Depending upon the proximity of the residences having privileges on the waterfront, parking requirements may be modified or waived by the Planning Commission.

If the site serves twelve (12) or more single residences, sanitary facilities must be included. Depending upon the proximity of the residences having privileges on the waterfront, sanitary facilities may be modified or waived by the Planning Commission. Utilizing natural vegetation, all sanitary facilities shall be screened from surrounding land uses, and shall be subject to all setback requirements.

(c) Site Plan:

In addition to all requirements of the Site Plan Review Section 4.16, the site plan shall show all docks and watercraft facilities. It shall also show the location and type of any picnic, playground, sports facilities, parking facilities and all sanitary facilities to be installed on the site. The Planning Commission shall recommend to the Township Board, to approve, disapprove or approve with conditions the site plan based on the following criteria:

- (i) The extent of contemplated injury or nuisance (including noise) to owners of riparian, adjacent and nearby lands.
- (ii) The impact upon the public's enjoyment of the navigable waters.
- (iii) The effects on the navigable waters of compounding (by precedent) the impact of the proposed waterfront uses by approval of subsequent development of similar nature.

The applicant shall provide one original copy of the site plan that is in a form and size suitable for recording with the Leelanau County Register of Deeds Office, along with a check for the recording fee. The secretary of the Planning Commission will record the site plan upon approval thereof, by the Township Board.

Section 4.21 Wireless Communications Overlay

Purpose and Intent: It is the expressed purpose of this ordinance to minimize the visual and environmental impacts of the wireless communication service facilities. The purpose and intent of this section is to further the conservation and preservation of the Township's natural and undeveloped areas and preservation of scenic resources, and to minimize adverse impacts on neighbors and property owners nearby such facilities. This section of the Zoning Ordinance shall not apply to communications towers which are installed for the personal use and enjoyment of individual residents, and which do not exceed fifty (50) feet in height.

Creating an overlay zone allows the Township to limit such tower facilities to only those specific locations in the Township which are most likely to provide the best coverage with the smallest tower structure necessary.

Further, the purpose is to:

- Accommodate the desire of residents, travelers and businesses to have high quality telecommunications technology without endangering health, safety, and welfare.
- Minimize adverse effects of towers through the development of careful design and setting.
- Avoid potential damage to adjacent properties from tower failure.

(a) Definitions:

- (i) Antenna: That portion of any equipment used to radiate or receive radiofrequency energy for transmitting or receiving radio or television waves.
- (ii) Carrier: A company that provides wireless communication service.
- (iii) Co-Location: The use of a single mount on the ground by more than one carrier.
- (iv) Elevation: The measurement of height above sea level.
- (v) Guyed Tower: A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.
- (vi) Monopole: The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform for panel antennas arrayed at the top.
- (vii) Personal Wireless Service Facility: Facility for the provisions of wireless communications service, as defined by the Telecommunications Act.
- (viii) Personal Wireless Services: The three (3) types of services regulated by this ordinance as sighted in the Telecommunications Act of 1966.
- (ix) Tower: Any pole, spire, structure, or combination thereof, including supporting lines, cables, wire, braces, and mast, intended primarily for the purpose of mounting an antenna, or to serve as an antenna.

(b) Required Permits:

Any construction of a communications tower under this section shall require review and approval under conditions specified in this section and shall be treated as a major project under the general provisions of Section 4.16 Site Plan Review. Any other permits required by state or federal statutes must be obtained by the applicant and the applicant must abide by all such regulations found in state or federal statutes.

(c) **Modifications:**

No modification or waiver of any requirements of this ordinance shall be granted by Cleveland Township unless the applicant demonstrates that it is required by federal law.

(d) **Term of Permit Revocation after Abandonment or Discontinuation of Use:**

- (i) A permit issued by Cleveland Township for construction of a wireless communication service facility shall expire two (2) years after the effective date of the permit approval.
- (ii) An applicant must complete all construction and site improvements within two (2) years, or must apply for a permit extension.
- (iii) If unused for 180 consecutive days, the facility shall be presumed abandoned. Upon abandonment, the carrier shall physically remove the facility within one hundred and eighty (180) days from the date of abandonment. "Physically remove" shall include, but not be limited to:
 - 1) Removal of antennas, mount, equipment shelters and security barrier from the subject property.
 - 2) Proper disposal of waste materials from this site in accordance with local and state solid waste disposal regulations.
 - 3) Restoring the location of the personal wireless service facility to its natural condition.
- (iv) If a carrier fails to remove a wireless communication service facility in accordance with this section, Cleveland Township shall have the authority to enter the subject property and physically remove the facility. The Township shall provide notice by mail at the owner/operators last known address of its intent to remove an abandoned facility. The owner/operator shall have sixty (60) days to remove such facility at its own expense. The owner/operator will forfeit the bond posted at time of application to cover costs for the removal of the facility in the event that the Township must remove the facility.
- (v) A permit under this section shall be revoked upon a finding that:
 - 1) The applicant has failed to comply with conditions of approval.
 - 2) The facility has not been properly maintained.
 - 3) The facility is no longer in use and has not been in use for the previous one hundred and eighty (180) days.

(e) **Other Requirements:**

All rules and regulations of the FCC and FAA must be met and complied with.

(f) **Prohibitions:**

- (i) No wireless communication service facility antenna shall be located on any parcel where the proposed antennas base is less than three hundred (300) meters and elevation above mean sea level as shown on the USGS and Topographic map. When a question may arise as to whether

this requirement is met, a survey showing the exact elevation of the natural grade of the land at the proposed site may be required.

- (ii) No wireless communication tower shall exceed two hundred (200) feet in height nor shall it exceed fifty (50) feet higher in elevation above the tallest structure or tree which is no more than one hundred (100) feet from it, measured horizontally.
- (iii) No wireless communications tower shall be located within two hundred and fifty (250) feet of any property line, nor within two hundred and fifty (250) feet of the nearest residence.
- (iv) A proposal for the new wireless communication service tower shall not be approved unless it can be shown by the applicant that the equipment planned for the proposed tower cannot be accommodated:
 - 1) on an existing tower.
 - 2) on a tower that has been permitted by Cleveland Township (even though not yet constructed.)
- (v) No antenna tower shall have lights, reflectors flashers, daytime strobes, steady night time red lights or other illuminating devices.
- (vi) No advertising shall be placed on wireless communications facilities.

(g) Performance Standards:

- (i) A tower shall be located on a parcel of land so as to have a minimal impact on adjoining properties and any negative impacts of the tower shall be confined as much as possible to the property on which the tower is located.
- (ii) Roads and accessory structures. The Township shall require that all such roads and structures be minimally intrusive, have a minimum impact on neighboring properties and preserve to the greatest extent possible the natural vegetation and topography of the site.

(h) Design Standards:

- (i) Screening by Vegetation: Wireless communications service facilities shall be screened from public view to the greatest extent practicable by the retention of existing dense tree growth as a visual buffer. Additional trees and/or plant materials to be planted to provide a sufficient year-round visual buffer. In locations which are primarily non-forested, such screening shall be required.
- (ii) Screening by Color: Facilities shall be painted to blend in with the sky or clouds, or a color the blend in with surrounding vegetation or some combination of each.
- (iii) Screening by Design: Facilities shall be designed in such a way as to blend in with the background, or lessen the visual impact as viewed for the surrounding areas. Such standards

shall include requirements that facilities be designed and/or camouflaged to resemble trees or other similar landscape features.

(iv) Only one (1) communication tower is permitted on a parcel of land. If a particular parcel is well suited for more than one communication tower, and the tower is located within two hundred (200) feet of the existing tower, the additional tower may be permitted.

(v) All towers shall be reasonably protected against unauthorized climbing and shall be constructed in a manner to ensure to the extent possible the safety of residence in the Township.

(i) **Co-Location:**

(i) Carriers shall share proposed wireless communication facilities and sites where feasible and appropriate, thereby reducing the number of stand-alone facilities. All applications for a Permit for proposed wireless communication facilities shall demonstrate good faith efforts to co-locate. Such good faith effort includes:

- 1) A survey of all existing structures that may be feasible sites for co-locating.
- 2) Submitting written statements from the owners/ operators of existing towers of all types in the service area that the proposed wireless communication service facilities cannot be accommodated; and
- 3) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating co-location.

(ii) In the event co-location is found to be not feasible, a written statement of the reasons shall be submitted to the Township, which may retain a technical expert to verify that co-location is or is not feasible.

(iii) Cleveland Township may request drawings and studies which show the ultimate appearance and operation of the proposed wireless communication service facilities at full build-out with maximum co-location.

(j) **Application Requirements and Permits Required for New and Modified Towers:**

In addition to the specific requirements of this section applicant shall comply with all application requirements as specified and be considered as major project under Section 4.16 Site Plan Review of the Cleveland Township Zoning Ordinance.

(k) **Fees:**

An application fee shall be charged by Cleveland Township to process applications under this section and accordance with the Schedule of Fees established from time to time by resolution of the Cleveland Township Board. The application shall be submitted to the Cleveland Township Zoning Administrator with a certified check for the full amount of the application fee. In the event that the Township incurs additional expenses in processing an application, included but not limited to consultants' fees and/or the cost of special meetings, the Township shall require the applicant to reimburse all costs for such

expenses. No permit shall be issued to an applicant until such time as all appropriate fees have been paid, and required bond has been posted.

- (l) In addition, the Township Board will require that a bond be posted in sufficient amount to cover the estimated cost of removal by the Township of any wireless communications service facility which may be abandoned. Such bond shall not be less than \$10,000. No permit shall be issued to an applicant until such time as all appropriate fees have been paid, and required bond has been posted.

Section 4.22 Private Access Roads.

(a) **Applicability.**

These standards shall apply to all means of access to the boundary line of a lot (whether platted or not and whatever called: e.g., easements, ways, private drives, common areas, or otherwise)—which is shared by more than two (2) residential lots or sites condominium units or any other type of development or use of land that includes residential uses and provide motor vehicle access to a public road.

(b) **Intent and Purpose.**

- (i) **Emergency Access.** The purpose of these standards is related in part to the ability of emergency vehicles to serve residences by at least being able to reach the boundary line of the lot
- (ii) **Assurance of Future Maintenance.** Further, these standards are intended to establish appropriate provisions for financial responsibility for the maintenance and repair of private access roads
- (iii) **Safety.** To provide a set of guidelines and review process to provide, to the extent possible and practical, safe access to residential properties.
- (iv) **Limitations.**
 - 1) Any access to any buildings whether by way of driveway, two-track, or other means from the lot line will be the responsibility of the property owner to maintain and build in a fashion suitable for emergency vehicles access.
 - 2) The Township does not submit that the standards herein are sufficient to provide for safety by other vehicular, bicycle or pedestrian use.
 - 3) The Township is not responsible for design, construction, maintenance, repair, or safety of any private access road.

(c) Administration and Approval.

- (i) **Minor Site Plan Approval Required.** For all proposed private access roads to five (5) or more residential lots or units minor site plan review is required, see Section 4.16.
- (ii) **Standards for Approval of Private Access Roads.** If the Planning Commission determines, by review of a licensed engineer's plan provided by the applicant, that the private access road meets the standards, regulations and requirements of this ordinance, then the plan shall be approved and the private access road may be constructed, extended, improved or relocated in accordance with the approved plan.
- (iii) **Land Use Permits.** A Land Use Permit for a building, dwelling, driveway or easement to be served by a private access road shall not be issued unless the applicant provides the Cleveland Township Zoning Administrator with:
 - 1) Proof of lawful access over the private access road to the lot, parcel or building site.
 - 2) An approved plan for the private access road
 - 3) A copy of the signed and recorded road maintenance agreement or restrictive covenant as provided by Section 4.22(vii);
 - 4) A copy of the Notice of Private Access as provided under Section 4.22(vii).
 - 5) A driveway permit for the private access road issued by the Leelanau County Road Commission if required by the road commission.
 - 6) Leelanau County Soil Erosion, Sedimentation, and Storm Water Runoff Control Ordinance compliance.
- (iv) **Existing Private Access Roads.** Prior to constructing, extending, improving or relocating a private access road, or using or extending an existing private access road to provide access to a lot, building, or dwelling unit, which was not existing and which was not provided access by the private road as of the effective date of this Ordinance, a plan for the private access road shall be submitted to the Planning Commission to determine compliance with the Standards, Regulations and Requirements of this Ordinance.
- (v) **Private Access Road as Part of a Residential Development Proposal.** A Private Access Road which is part of a Planned Unit Development, Site Condominium, Subdivision or other land development proposal requiring approval by the Planning Commission may be approved by the Planning Commission subject to the Private Access Road Standards, Regulations and Requirements of this Ordinance.
- (vi) **Access to Five (5) or More Residential Lots Across Other Property.** These regulations are applicable to all private access roads serving Five (5) or more residential lots or units, regardless of whether the fee or equitable owner(s) of all or part of the private access road is the same person(s) developing the property.

(d) Private Access Road Site Plan Information Requirements.

In addition to the informational requirements for a minor site plan, the plan and application for a private access road shall be prepared and sealed by a registered engineer or surveyor and shall include the following, at a minimum:

- (i) The location, route, dimensions, design, and grade of the private access road;
- (ii) The relation of the private access road to adjacent or intersecting public or private access roads;
- (iii) Existing and proposed curb cuts;
- (iv) The lots, buildings, or dwelling units, existing and proposed, which will be provided access by the private access road;
- (v) The location of the public utilities within the private access road easement and within twenty feet (20 ft) of the easement;
- (vi) The location of any drainage courses, lakes, streams or other natural bodies of water within the private access road easement and within one hundred feet (100 ft) of the easement; and
- (vii) The private access road name(s), street name(s) and the location of the road and street signs.
- (viii) Plan and profile drawings of the proposed private access road in detail complete enough to be used as construction plans.
- (ix) Proposed gradients of the road
- (x) A drainage plan submitted on a topographic map with no greater than two-foot (2 ft) contour intervals shall be submitted, indicating the manner in which surface drainage is to be disposed of including the location of the drainage facilities and structures.

(e) Private Road Access Road Design Standards.

(i) Grade.

- 1) Maximum Grade. The maximum grade allowed shall be eight percent (8%).
- 2) Exceptions. Grades up to twelve percent (12%) may be approved if the following standards are met.

- a) Twelve percent (12%) grade shall not exceed three hundred feet (300 ft) in length.
- b) Ten percent (10%) grade shall not exceed five hundred feet (500 ft) in length.

- 3) Grade at Intersections. The maximum grade at the stopping side of the intersection shall be two percent (2%).
- 4) Grade of Turn-Around. Turn-a-round areas shall have a maximum grade of four percent (4%).
- 5) Vertical and horizontal curves shall be used at all changes in grade or direction.

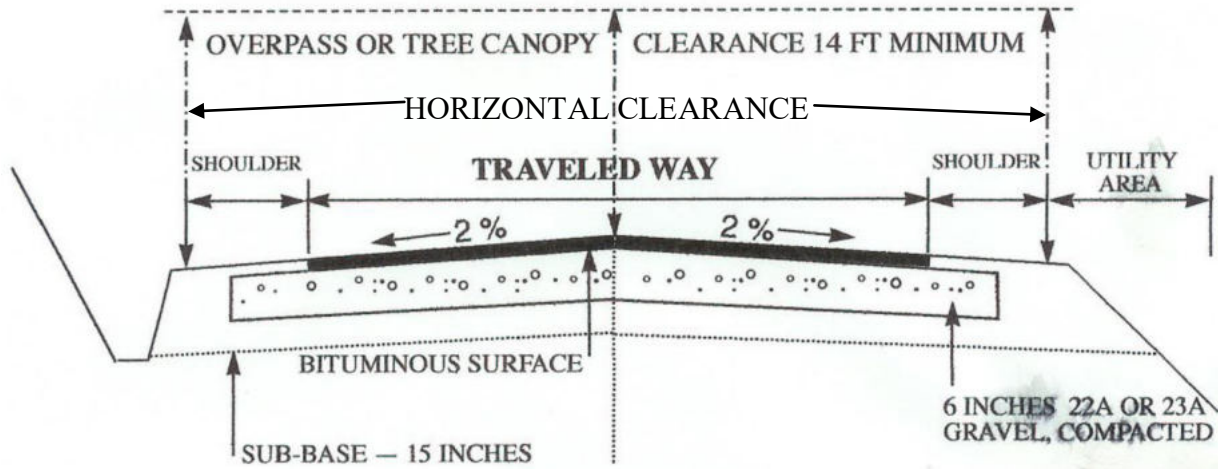
(ii) Design Speed. Sight distance and horizontal and vertical alignment shall be based on a minimum design speed of twenty-five miles per hour (25mph) and shall be in accordance with the American Association of State Highway and Transportation Officials' (AASHTO) "Policy of Geometric Design of Highways and Streets", under the designation of "Recreational Roads".

(iii) Clearing and Grubbing.

- 1) All trees, stumps, brush and roots shall be removed from within the grading limits.

- 2) All graded areas shall be stabilized and may require having topsoil replaced, seeding, fertilizer and mulch in accordance with the Leelanau Conservation District recommendations.
- (iv) Road Sub Base.
- 1) The presence of other granular material in sub-grade soil shall require under-cutting and full width placement of a minimum of twelve inches (12 in) of granular sub-base.
 - 2) The level of finished sub-grade shall be at least two and one-half feet (2-1/2 ft) above the water table.
- (v) Drainage Ditches.
- 1) Ditches shall be of sufficient depth to permit placing of future connecting driveway entrance culverts, unless some sort of storm sewer or raised bituminous curbing is approved by the Leelanau County Drain Commissioner and/or the Leelanau County Road Commission.
 - 2) Side slopes shall be no steeper than one foot vertical to two feet horizontal (1 ft vertical to 2 ft horizontal).
 - 3) Where the depth of fill exceeds ten feet (10 ft), adequate guardrail protection shall be provided.
 - 4) Drainage ditches shall be constructed on each side of the roadway in cut sections and in fill sections when required.
- (vi) Bridges. Bridges for roadways shall be designed to not less than HS-20 AASHTO loading.
- (vii) Curb and Gutter. M.D.O.T. type B-2 concrete curb and gutter will be required at an intersection with a county road if the development has a total of fifteen (15) or more dwelling units.
- (viii) Drainage.
- 1) In no case shall runoff from any Private Access Road be diverted due to construction beyond the limits of the property onto adjacent property unless appropriate easements are provided.
 - 2) Drainage shall be designed to accommodate a twenty-five (25) year rain event.
 - 3) A crown of sufficient slope to ensure drainage shall be provided across the width of the traveled way for either gravel or bituminous surface roads.
 - 4) The plan shall meet the requirements of the Leelanau Conservation District and the Leelanau County Drain Commissioner's Office.
- (ix) Vertical & Horizontal Clearance. Overhead vertical clearance of a minimum of fourteen feet (14 ft) and a horizontal width of fourteen feet (14 ft) shall be maintained on any private access road.

Figure 4.22 1
Sample Road Profile & Vertical Clearance

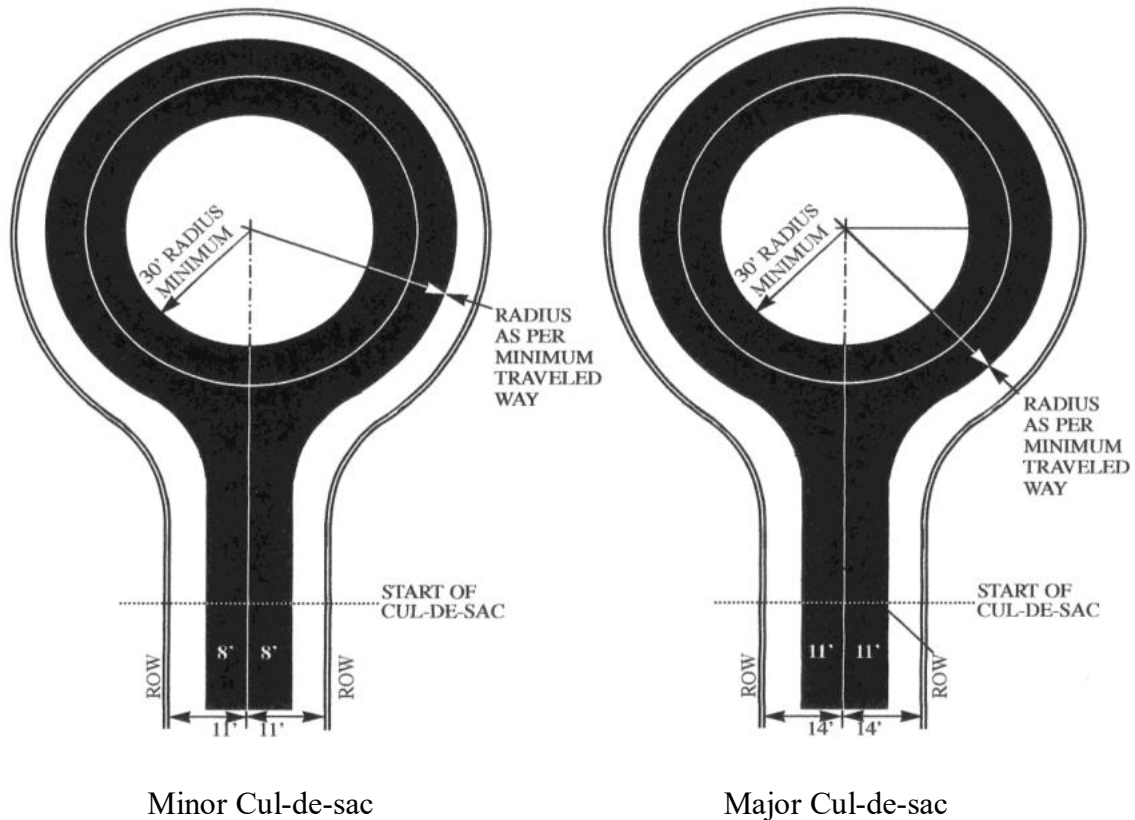


(x) Dimensional Standards.

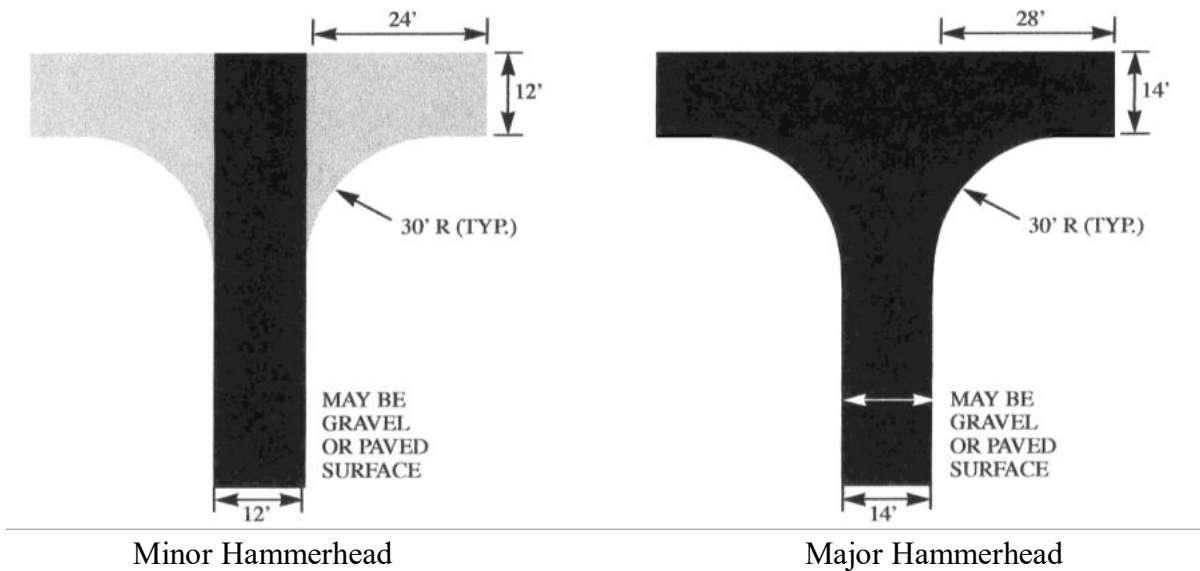
Table 4.22 1
Private Access Road Size Requirements – All Measurements in Feet

Number of lots/residents to be served	Traveled Way Width	Shoulder Width (each side)	Recorded ROW Easements Width	Type of Surface Required	Type of Turn-a-round
5 through 10	14	2	30	Gravel or better	Minor Hammerhead
11 thru 16	14	2	35	Gravel or better	Major Hammerhead
17 thru 49	16	3	40	Gravel or better	Minor Cul-de-Sac
Access to public road, or 50 or more lots	22	3	50	200# / Syd. Bituminous	Major Cul-de-Sac

Figure 4.22 2
Typical Cul-de-sac Turn-Arounds



**Figure 4.22 3
Typical Cul-de-sac Turn-Arounds**



(xi) Maximum Length.

- 1) Maximum distance of a private access road(s) shall be four thousand feet (4000 ft) as measured from a public road to the end.
- 2) If the distance is greater than four thousand feet (4000 ft) or for any residential development creating a total of fifty (50) or more lots, one or more additional connections to the public road or to an adjacent private access road of similar specification shall be required.
- 3) Road length shall not be measured along the roadway but as a straight line distance from the connecting road to the end of the property served (see example below).

(xii) Surfacing and Base Courses.

1) Gravel Roads.

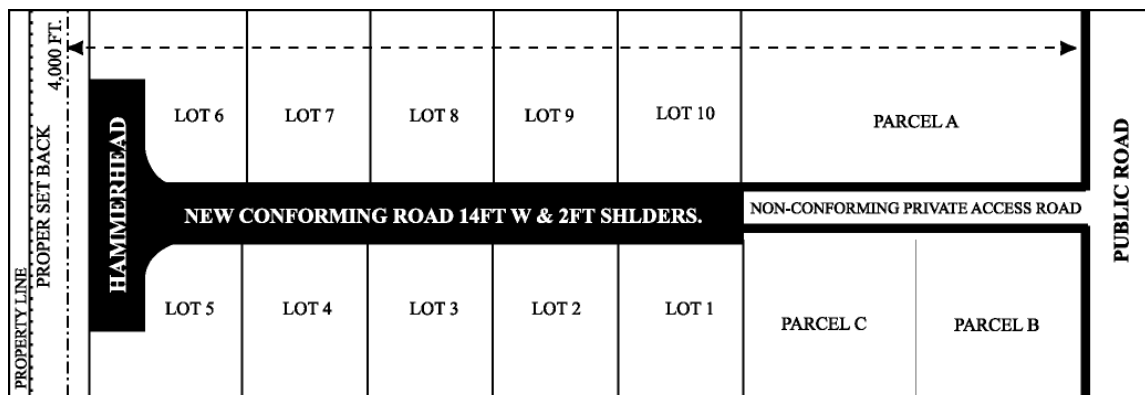
- a) A six-inch (6 in) aggregate finish course of 23A processed road gravel (MDOT Standard Specifications) shall be placed and compacted for gravel roads.
- b) The sub-base shall be compacted to ninety-five percent (95%) density prior to placement of base.

2) Bituminous Roads.

- a) For bituminous-surfaced roads, a six inch (6in) aggregate finish course of 22A processed road gravel shall be placed and compacted.
- b) The bituminous aggregate pavement course shall be laid by an MDOT – pre-qualified contractor.
- c) Pavement course shall be laid at a rate of at least two hundred pounds per square yard (200#/SYD) of C.A.L.C. (MDOT Standard Specifications) or other approved mix, and may be applied in one (1) course.
- d) The sub-base shall be compacted to ninety-five percent (95%) density prior to placement of base.
- e) The aggregate base under bituminous shall be compacted to ninety-eight percent (98%) density.

- 3) Alternative Material. All materials incorporated in the work shall meet the specifications called for in the approved private road site plan, or be approved by the private road design engineer.
- (xiii) Shoulders
- 1) Shoulder material shall be of a type when compacted that will not rut or displace under traffic.
 - 2) Shoulder design and ditch construction shall adequately drain water from roadway, while preventing erosion.
- (xiv) Signs
- 1) At a minimum a stop sign must be placed at the intersecting county or public roads.
 - 2) The applicant shall finish and erect private road name signs at all intersections within the subdivision and entrances thereto.
 - 3) Private road names must be in accordance with Leelanau County Address Ordinance, and submitted by the County Planning Commission & Community Development Office.
 - 4) For those Private Access Roads serving less than five (5) residential lots or units it is not necessary to submit private road names.
- (xv) Guardrails
- 1) Guardrails shall be required at fill sections where embankment is greater than ten feet (10 ft) in height and the fill slope is steeper than one to three (1 to 3).
 - 2) The construction of one to three (1 to 3) slopes is preferred over the use of guardrails and is required where practicable.
 - 3) Where guardrail or posts are used, shoulders shall be constructed two feet (2 ft) wider than required under Section x above.
- (xvi) Road Alignment
- 1) Private Access Roads should intersect with each other or with public roads at ninety degrees or closely thereto and in no case less than seventy degrees.
 - 2) When proposed continuation of access road at an intersection is not in good alignment with the opposing road, it must not intersect the cross road closer than one hundred seventy-five feet (175 ft) from such an opposite existing road, as measured from the centerline of said roads.

Figure 4.22 4
Continuation of Non-Conforming Private Access Road (sample)



(f) Existing Non-Conforming Private Access Roads.

- (i) Continuation of Existing Non-Conforming Roads. An existing road used as a private access road at the time these Standards become effective, which does not meet all the design requirements specified herein, may continue to be used as is, provided said-road meets the standards that were in effect at the time the said road was established.
- (ii) Extension of Non-Conforming Road. Any new residential development on a non-conforming private access road or any extension of an existing private access road must meet all standards for a new road.
- (iii) Notice of Standards. An existing private access road may not be accessible or serviceable by emergency, utility vehicles and/or their equipment, and the publication of these standards will be deemed notice to property owners.
- (iv) Private Road Agreement. For private road extensions, the Township shall require that the private access road agreement required under Section 4.22 (g) below be created or updated to include the notice of standards text in Paragraph c, above.

(g) Private Access Road Agreements.

- (i) A recorded agreement between the parties in interest in the private access road or street, or a restrictive covenant, shall address the following:
 - 1) Provisions to ensure the continued repair and maintenance of the private access road;
 - 2) The financing of the costs thereof by the property owner(s) benefiting from the private access road.
 - 3) The agreement shall run with the land.
 - 4) The agreement shall provide for access for emergency and other public vehicles and the installation of public utilities.
 - 5) The agreement shall also contain a statement that *“Except as provided by law, no public funds of Cleveland Township or Leelanau County shall be used to build, repair or maintain the private access road. Access to the residential lots or units within the described property will not be maintained by the Leelanau County Road Commission. (Set forth a legal description of the entire subdivision property perimeter.) Cleveland Township is not responsible nor shall the Township be obligated in any manner to perform regular inspections of this private access road or to provide necessary repairs or maintenance.”*

- (ii) A copy of the agreement or restrictive covenant shall be provided to the Township Planning Commission as a condition to approval of the Plan for the Private Access Road.

(The effective date of this Section is February 5th, 2005 as Amended October 6th, 2006.)
(amended January 14, 2020)

Section 4.23 Wind Energy Systems

Purpose and Intent: This Section establishes general guidelines and standards for the siting and use of On Site Use Wind Energy Systems, anemometers and related devices and structures. This Section is intended to further the conservation and preservation of the Township's natural and undeveloped areas and preservation of scenic resources and to minimize adverse impacts of wind energy systems on neighbors and nearby property owners and to limit such systems to those specific locations in the Township which are most likely to provide for the needs of one's home, home business and/or farm.

1. Further, the intended purpose is to
 - a. Allow the use of wind energy system towers and anemometers of limited height.
 - b. Protect residential areas from any potentially adverse visual or noise impacts of wind energy systems or related devices and structures.
 - c. Provide for a land use that will provide an energy source with low associated environmental impacts.
 - d. Provide for the removal of abandoned or noncompliant wind energy turbine generator towers, anemometer towers, and/or related devices or structures.
2. Definitions:
 - a. Anemometer: An instrument for measuring wind speed. This definition includes an anemograph.
 - b. Anemometer Tower: A structure, including all accessory facilities, on which an anemometer is mounted.
 - c. Wind Energy System: A wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades and tower as well as related electrical equipment.
 - d. Wind Energy System Tower Height: The distance between the ground and the highest point of the wind energy system tower including the top of the blade in its vertical position
 - e. On Site Use Wind Energy System: An On Site Use Wind Energy System is primarily intended to serve the electrical needs of the consumer at the site of the

wind energy system.

3. Applicability

Anemometer towers and wind energy system towers shall be permitted land uses exclusively in the Districts outlined in Table 4.23.1 and subject to the requirements of Sections 4.23(d) and 4.23(e).

Table 4.23.1 Summary of Applicability

Districts	Agricultural District	Residential District R1	Residential District R2	Residential District R3	Business District B1	Business District B2	Commercial Resort District	Recreational District	Government
Allowed	Yes	Yes	Yes	No	No	Yes	No	No	No

4. Requirements

- a. **Maximum Number of Towers:** The maximum number of anemometer and wind energy system towers on any one parcel shall be one (1).
- b. **Minimum Site Area:** The minimum site area for an anemometer tower or wind energy system tower shall be as necessary to meet required setbacks and any other applicable standards of this Ordinance.
- c. **Setbacks:** Each proposed anemometer tower or wind energy system shall be set back from any adjoining site property line or road right-of-way a minimum distance of 1.5 times the wind energy system tower height.
- d. **Maximum Height:** The maximum height of an anemometer tower or wind energy system tower shall be one-hundred-twenty-five (125) feet.
- e. **Minimum Rotor Wind Vane or Blade Clearance:** The lowest point of the arc created by rotating wind vanes or blades on a wind energy system shall be no less than twenty-five (25) feet or 1/3 of the tower height, whichever is greater, above the ground
- f. **Maximum Noise Levels:** Any proposed wind energy system shall produce sound levels of no more than fifty (50) decibels as measured on the dB(A) scale at the property lines of the site in question. A noise report must be submitted with any application for an anemometer tower, or wind energy system tower.
- g. **Maximum Vibration:** Any proposed wind energy system shall not produce ground vibrations humanly perceptible beyond the property on which it is located.

- h. **Transmission Lines:** Any on-site electrical transmission lines connecting the wind energy system to the public utility electricity distribution system shall be located underground.
- i. **Interference with Reception:** Wind energy systems shall be constructed and operated so that they do not interfere with television, radio, microwave or navigational reception of neighboring areas.
- j. **County, State or Federal Requirements:** Any proposed anemometer tower, or wind energy system tower shall fulfill or exceed any standards and regulations of the Leelanau County Inspections Department, FAA, Michigan Public Service Commission, National Electric Safety Code and any other agency of the State or Federal Government with the authority to regulate wind energy systems or other such structures that are in effect at the time the land use permit is approved.
- k. **Aesthetics and Lighting:** Any proposed anemometer tower or wind energy system tower shall fulfill the following requirements:
 - 1. Each anemometer tower, or wind energy system tower including all accessory structures shall maintain either a galvanized steel finish or be painted a neutral color so as to reduce visual obtrusiveness.
 - 2. Each anemometer tower, or wind energy system tower shall not be artificially lighted, unless required by the FAA, FCC or other governmental agencies
 - 3. Each anemometer tower or wind energy system tower may be a monopole, monolithic tube or lattice style construction.
- l. **Signs:** The wind energy system tower or anemometer tower owner is responsible for updating and maintaining a sign at least one (1) square foot and no more than two (2) square feet in area that shall provide the owner's name, address and telephone number for emergency calls. The sign shall have at least one half inch (1/2") high letters and be posted on the anemometer tower or wind energy system tower not more than eight (8) feet off the ground. No advertising of any type shall be displayed at the site.
- m. **Non-essential Services:** Any anemometer tower or wind energy system permitted pursuant to this Section 4.23 of the Cleveland Township Zoning Ordinance shall not be considered as essential services, public utilities or private utilities.
- n. **Abandoned or Unsafe Anemometer Tower or Wind Energy System:**
 - 1. Any anemometer or wind energy system that is inoperative for a continuous period of three-hundred-sixty-five (365) days shall be considered abandoned.
 - 2. The owner of any anemometer or wind energy system that is abandoned or in violation of the Requirements in this Section 4.23 shall rectify the violation or remove the tower from the property within ninety (90) days of the receipt of a notice of abandonment or violation from the Cleveland Township Zoning Administrator.

3. The landowner shall restore the site to its condition prior to location of any anemometer or wind energy system or associated structures, related devices and their foundations on site and this shall be accomplished at the expense of the current land owner(s).

5. Land Use Permit Requirements

- a. Standards of Approval: All wind energy systems shall comply with the following standards for approval:
 1. The use shall fulfill all requirements listed above in Section 4.23(d)
 2. There shall be a signed agreement with the Cleveland Township Board to ensure full conformance with the standards of this Section and to ensure removal of any abandoned or unsafe/dangerous anemometer or wind energy system signed by all owners of the system. The above provisions, covenants and restrictions shall be binding upon all owners of the property/system and all assigns and persons claiming under or through any owner or occupant.
 3. A Noise Report shall be submitted including satisfactory mitigation measures to assure that no nearby properties will be subjected to unreasonable noise impacts.
 4. Proof of application for an electrical and mechanical permit from the Leelanau County Inspections Department.
 5. A topographic map shall be provided by the applicant to show location and elevations of the site in question.
 6. If the proposed location of a system is within 500 feet of a body of water a soil erosion permit shall be required.

Section 4.24 Outdoor Lighting

A. Purpose and Intent

To reduce nuisances to property owners, their neighbors, and the township population as a whole, by regulating glare, light trespass, lamp types, and lamp shielding.

This regulation of light pollution will allow residents nighttime enjoyment of the dark sky, in all districts of the township.

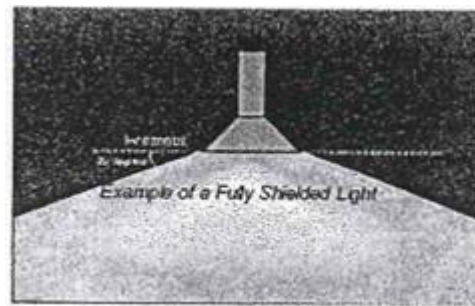
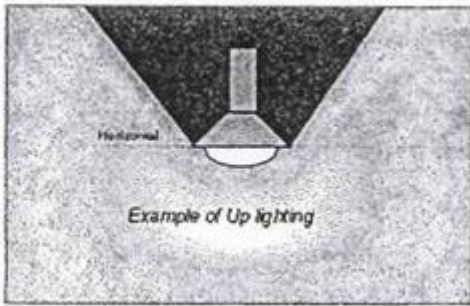
B. Applicable Fixtures

Outdoor illuminating devices, reflective surfaces, lamps and similar devices, permanently installed or portable. Examples include but are not limited to; spot lights, flood lights, yard lights, sign illumination, etc.

C. Outdoor Lighting Requirements

1. All exterior lighting, whether building mounted, pole mounted, or other, shall be shielded, and in no case shall the light be permitted to extend above the 90 degree horizontal plane.
2. No lighting shall be more than 20 feet in height. Exceptions may include lighting that may be required by state or federal law. Examples: Cell tower, wind tower, etc.

3. All light shall be directed away from adjacent properties to avoid light trespass. Floodlighting is discouraged, and if used, must be shielded to prevent up lighting and disabling glare for drivers or pedestrians.
4. These requirements apply only to new construction and new or replacement lighting installations, in all districts, after the effective date.
5. Enforcement shall be provided as in Article XII.



D. Definitions

Glare- Direct light emitted by a light that causes reduced visibility of objects or momentary blindness.

Light Pollution- General sky glow caused by the scattering of artificial light up into the atmosphere.

Up Lighting- Any light source that distributes illumination above a 90 degree horizontal plane.

(As amended by Ordinance 1 of 2012, Effective January 19, 2013)

Section 4.25 Conditional Rezoning

A. Rezoning Requests - General.

In reviewing an application for the rezoning of land, whether the application is made with or without an offer of conditions, factors that should be considered by the Planning Commission and the Township Board include, but are not limited to, the following:

- i. Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan;
- ii. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;
- iii. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning; and

- iv. Whether all of the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

B. Conditional Rezoning.

1. Intent.

It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the MZEA (MCL 125.3405), by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

2. Application and Offer of Conditions.

- a. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
- b. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
- c. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- d. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- e. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
- f. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this

Ordinance.

g. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

3. Planning Commission Review.

The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in sub-section B above, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

4. Township Board Review.

After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in sub-section B, above. If the Township Board considers amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board may, in accordance with Section 401 of the MZEA (MCL 125.3401), refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

5. Approval.

a. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.

b. The Statement of Conditions shall:

- 1) Be in a form recordable with the Register of Deeds of the County in which the subject

land is located or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.

- 2) Contain a legal description of the land to which it pertains.
- 3) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
- 4) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
- 5) Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Township with the Register of Deeds of the County in which the land referenced in the Statement of Conditions is located.
- 6) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.

c. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.

d. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Register of Deeds of the County in which the land is located.

e. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

6. Compliance with Conditions.

a. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to

comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

b. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

7. Time Period for Establishing Development or Use.

Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

8. Reversion of Zoning.

If approved development and/or use of the rezoned land does not occur within the time frame specified under Section (7) above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

9. Subsequent Rezoning of Land.

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Section (8) above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Register of Deeds of the County in which the land is located a notice that the Statement of Conditions is no longer in effect.

10. Amendment of Conditions.

- a. During the time period for commencement of an approved development or use specified pursuant to Section (9) above or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
- b. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

11. Township Right to Rezone.

Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the MZEA (MCL 125.3101, et seq.)

12. Failure to Offer Conditions.

The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

(As amended by Ordinance #1 of 2014, Effective Date November 22, 2013)

Section 4.26 Scenic Viewshed Preservation Overlay District

Purpose

The purpose of the Scenic Viewshed Preservation Overlay District is identify the Township's scenic viewsheds and to establish an overlay district to protect the aesthetic quality, hillside terrain stability, and environment of the township's ridgelines and natural features.

Definitions

The following definitions apply for the purposes of this section.

1. **Dominant Ridgeline:** The line of maximum elevation that connects the crests along the range of hillsides within the overlay district.
2. **Scenicview Shed:** a hillside and ridgelines, including vegetation, of a hill or hills, and the ridgeline which background is open sky as seen from a public vantage point, with a slope of 10% or greater and an elevation above six hundred fifty feet (650') MSL (mean sea level) as defined by the USGS Quadrangle map.
3. **Dominant Feature:** Most visibly prominent element.

4. **Primary Ridgeline Element:** The prominently visible features silhouetted against the sky.
5. **Downgrade:** Elevation below the dominant ridgeline.
6. **Landform:** A natural feature of the earth's surface.
7. **Public Vantage Point:** Public vantage points include county and state roads and public lakes.
8. **Natural Grade:** Surface of the ground prior to development.
9. **Treed:** Covered with trees; wooded area.

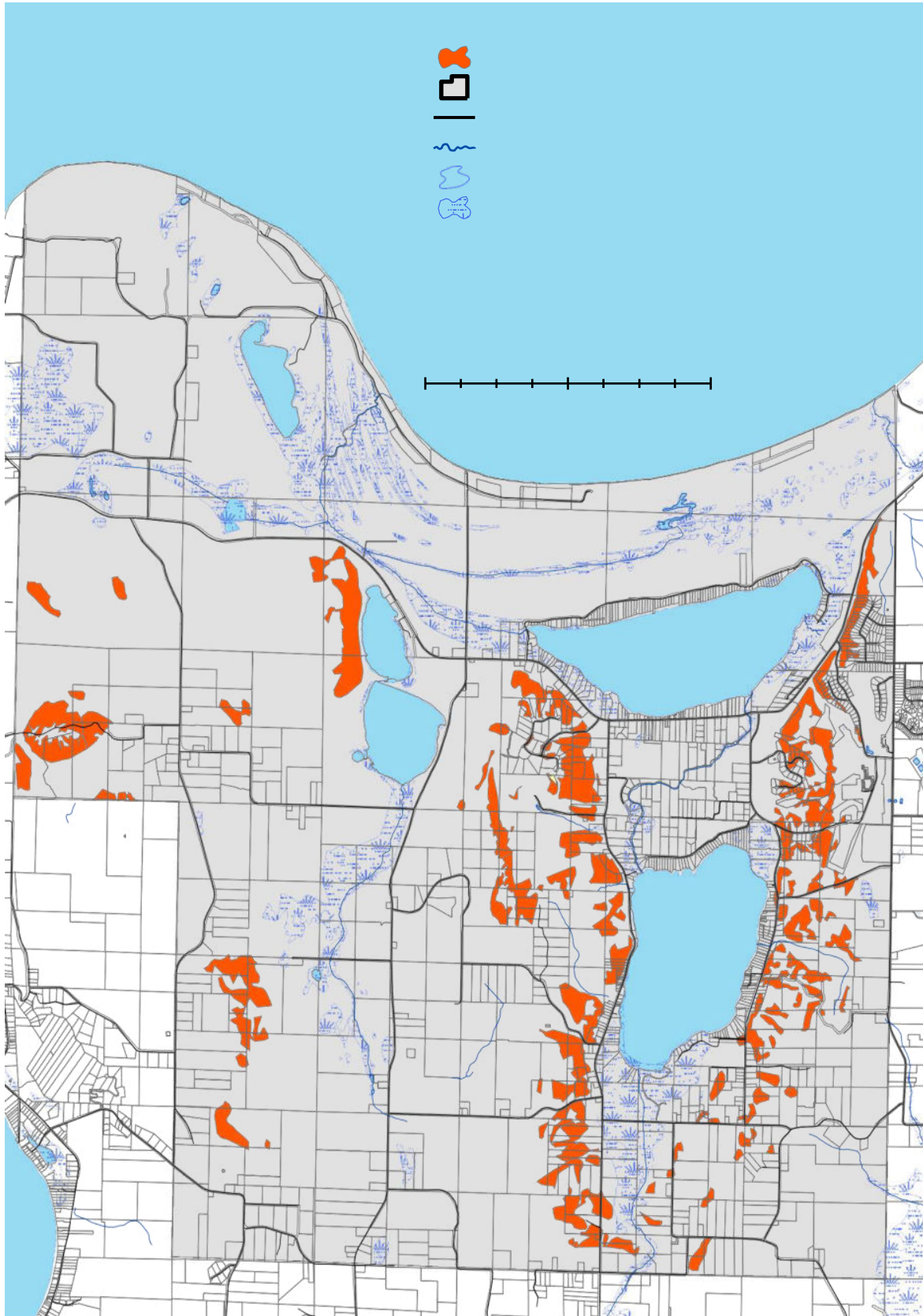
Applicability

Township hillsides within the overlay district are subject to this ordinance.

1. On scenic viewsheds that are treed, those trees that form frontage to public vantage points and a background for the roofline of a structure must be preserved. No clear-cutting, except for the footprint area of approved development plus a 10' construction perimeter and the access side of the development with an area sufficient to allow for the maneuvering of construction equipment. A greater area may be cleared for agricultural purposes as permitted by the Right To Farm Act (PA 93 of 1981) while preserving the frontage trees as viewed from public vantage points. Public vantage points include county and state roads and public lakes. A map of these viewsheds is provided at **Figure 4.27**.
2. Structures shall be placed downgrade of the dominant ridgeline, unless said structures are screened with background and / or lateral plantings so as not to be the primary ridgeline element viewed from public vantage points. Planned or existing screening vegetation shall be clearly indicated on the site plan submitted for a land use permit. At a minimum, trees to be planted for screening purposes must be 5 to 7 feet in height for conifers and 2" caliper DBH (diameter at breast height - approximately four feet above grade) for deciduous trees. All plantings must be species native to the Great Lakes region.
3. Hillside grading is to be minimal to retain the existing landform. The natural grade is to be used in terrain - adaptive construction that steps with the landform and reduces the need for significant earth moving and retaining walls. Terrace or step-type building pads that substantially alter the natural contour of the hill side are prohibited.

4. Trees shall remain the dominant feature of the viewshed (hillsides and ridgelines) after the placement of the structure. The structure shall naturally blend into the viewshed landscape with foundations, rooflines, building materials and exterior colors fitting the natural landscape. Structure placement will not result in building, roof, or appurtenant structure to visually exceed the height of the ridgeline when viewed from a public vantage point.
5. Where public views will be unavoidably affected by a structure, building height shall not exceed thirty-five (35) feet above grade. An exception is made for communication towers, Section 4.20 of the ordinance.
6. Impervious surfaces shall not exceed 25% of the lot. All water runoff from impervious surfaces shall be retained on site, and if necessary, shall be diverted to infiltration basins covered by natural vegetation.
7. A Site Plan Review shall be required for any development within the Scenic Viewshed Overlay District. Application must follow Section 4.16, addressing all applicable submittal items and following prescribed procedures.

Figure 4.26
Viewshed Map



Article V. RESIDENTIAL DISTRICT

Section 5.01 Residential District

The residential district shall be divided into three (3) zones: Residential I, Residential II, and Residential III.

Section 5.02 Residential I - Uses Permitted:

No building nor structure, nor any part thereof, shall be erected, altered, or used, or land or premises used, in whole or in part, for other than one (1) or more of the following specific uses:

- (a) One single family detached dwelling with or without a garage for the storage of automobiles and/or boats.
- (b) One guest house located on the same building lot area as the main house, and not attached to same, nor occupied for over six (6) months in any one calendar year.
- (c) Home occupation, provided there be no external evidence of such occupation except a name plate not more than four (4) square feet in area, without illumination, and of a character in keeping with the neighborhood, and provided further that said occupation does not require nor effect any change in the external character of the building.

Section 5.03 Residential II - Uses Permitted:

No building nor structure, nor any part thereof, shall be erected, altered or used, or land or premises used, in whole or in part, for other than one (1) or more of the following specific uses:

- (a) Any use permitted in Residential District I, as described under Article V, Section 5.02 of this Ordinance, and subject to its provisions.
- (b) Schools, churches, and hospitals, provided that such use may be allowed only after the Board of Appeals has determined that sufficient off-street parking is provided to prevent hazard to traffic, pedestrians and residents of the area.

Section 5.04 Residential III - Uses Permitted:

No building nor structure, nor any part thereof, shall be erected, altered, or used, or land or premises used, in whole or in part, for other than one (1) or more of the following specific uses:

- (a) Any use permitted in Residential District II, as described under Article V, Section 5.03 of this Ordinance, and subject to its provisions.
- (b) Multiple family dwellings provided they are built on a lot or parcel having not less than 40,000 square feet plus an additional 10,000 square feet for each family dwelling unit in excess of three dwelling units excluding streets, roads, and other public thoroughfares. This provision includes townhouses and condominiums.

Section 5.05 Mobile Homes:

A mobile home shall be considered a single family dwelling provided the following conditions are complied with:

- (a) It must meet the square foot of living requirements for a single family dwelling. The wheels and axles must be removed and the unit placed on a permanent foundation and fully enclosed in a non-temporary manner.
- (b) It shall be attached to a pressure water supply system and sewage disposal system approved by the County Health Department.

Section 5.06 Size of Dwellings:

No single family dwelling shall be hereinafter erected, altered or moved, on any land or premises in this district which provides for less than four hundred eighty (480) square feet of living area in Residential I (Effective Date August 14, 2018). Multiple family dwellings shall provide a minimum of four hundred eighty (480) square feet of living area per unit. Townhouses and condominiums shall be subject to the same size restrictions. The living area herein referred to shall mean the outside dimensions of such area, exclusive of attached garages, porches, or other accessory structures.

- (a) Completion: Any dwelling or accessory building or any addition thereto must be completed on the exterior surfaces with suitable finishing material, including painting or staining in the case of wood, within two (2) years from date of issuance of the building permit, except that in such cases where the permit is issued for the building only of a "basement home", such a home shall be considered a partial home and the super-structure shall be built and completed on the exterior as described above within three (3) years from date of issuance of the original building permit. If proof is shown of hardship, action shall be determined by Zoning Administrator.

(amended August 14, 2018)

Section 5.07 Deleted

Deleted 6/12/79.

Section 5.08 Setback Restrictions:

No building or structure shall be built closer than forty (40) feet to the nearest right-of-way line of any public street or thoroughfare, no closer than ten (10) feet for side yards, no closer than ten (10) feet for rear yards, and no closer than seventy-five (75) feet to the water's edge. Where compliance with either of these restrictions creates a hardship, application for possible relief may be made to the Zoning Board of Appeals. All Ag-Residential Lots created under Section 9.04 shall have the following setback restrictions: 10 feet for side yards and rear yards where Ag-Residential Lots abut one another, 50 feet where side yards or rear yards abut Restricted Open Space land or other land in the Agricultural District (this requirement may be waived under the provision of Section 9.04(b), et seq)

Section 5.09 Building Lot Width and Area:

Each dwelling or other main building hereafter erected in the Residential Area shall be located on a building lot or parcel of land not less than two hundred (200) feet in average width throughout its length and containing not less than forty thousand (40,000) contiguous square feet of area in

Residential District I, not less than one hundred fifty (150) feet in average width throughout its length, and containing not less than thirty thousand (30,000) contiguous square feet of area in Residential District II and Residential District III, not divided by any public road, street or thoroughfare; provided that this shall not prevent the use of any building lot or parcel of land of lesser size that was of legal record or had been laid out by a registered surveyor prior to the effective date of this Ordinance. No portion of any building lot or parcel of land may be used or counted in the calculation of a required building lot area for more than one (1) main building. The yard area free of all buildings and structures shall constitute at least seventy-five (75) percent of the lot.

Section 5.10 Deleted

Deleted 6/12/79.

Article VI. COMMERCIAL-RESORT DISTRICT

Section 6.01 Uses Permitted:

No building or structure, or any part thereof, shall be erected, altered, or used, or land or premises used, in whole or in part, for other than one (1) or more of the following specific uses:

- (a) Any use permitted in the Residential Districts as described under Article V, of this Ordinance, and subject to its provisions.
- (b) Inns, lodges, hotels and rooming houses with or without dining facilities consisting of single or multiple unit dwellings intended for rental, with such necessary and customary accessory buildings as automobile and boat storage garages, utility buildings, recreational facilities, docks, boathouses and bathing houses, all designed and used primarily to serve the regular tenants of same.
- (c) Motels consisting of multiple unit dwellings intended for rental with dining facilities only where ten (10) or more units are combined in one (1) motel facility. Customary accessory buildings and recreational facilities may be combined with such motels.
- (d) Mobile home park, as defined in the "Mobile Home Commission Act", consisting of proper facilities for mobile homes with accessory buildings such as central shower and sanitary facilities, central laundry and utility building with recreational facilities such as docks, boathouses, bathing houses, playground areas, etc., all designed and used primarily to serve regular tenants of said mobile home park.
- (e) Rental cabins with or without housekeeping facilities in groups of two (2) or more, each cabin being a single family dwelling.
- (f) Hospitals and nursing homes which shall have sufficient off-street parking to provide for both staff and visitors so as to prevent hazards to traffic, pedestrians and residents of the area.
- (g) Business and professional offices and clinics offering personal services not involving the sale of products which shall have sufficient off-street parking to accommodate both staff and clientele.
- (h) Municipal and government buildings.

Section 6.02 Required Land Area:

Each main building hereafter erected in the Commercial Resort district shall be located on a building lot containing not less than fifteen thousand (15,000) contiguous square feet of land not divided by any public road, street, or thorough-fare. No building or structure, or group of rental units permitted in this district, shall be built on a lot having less than five thousand (5,000) square feet of area for each such rental unit, provided, however, that access driveways and parking areas for cars and/or boats shall be included in this area and not be required in addition to this area.

Section 6.03 Setback Restrictions:

No building or structure in this district shall be built closer than forty (40) feet to the nearest right-of-way line of any public street or thoroughfare, nor closer than seventy-five (75) feet to the waters edge, nor closer than fifteen (15) feet to a rear lot line.

Section 6.04 Side Yard Requirements:

No building, nor structure, nor any part thereof, may be erected less than ten (10) feet from the side line or lines of a building lot, nor less than fifty (50) feet when said lot line is adjacent to property zoned residential.

Section 6.05 Deleted

Deleted 6/12/79.

Section 6.06 Spacing of Separate Buildings:

To prevent overcrowding of buildings and structures and to reduce fire hazards, no separate buildings shall be built closer than twenty (20) feet apart.

Section 6.07 Accessory Buildings:

Buildings and structures for accessory use customarily incidental to any of the uses permitted in this district shall be subject to the same provisions of location, spacing and land occupancy as the primary buildings permitted in this district and their area shall be computed as part of the maximum total area of land occupancy permitted.

Section 6.08 Off-Street Parking:

All developments of land use permitted in this district shall provide off-street parking for one (1) automobile for each rental unit. If dining facilities are provided in connection with any of the uses permitted in this district, then off-street parking shall be provided for non-resident patrons in a ratio of one (1) automobile to each four (4) persons for whom the facility is designed to accommodate.

Section 6.09 Dining Facilities Limitations:

Dining facilities in this district shall be limited to those attached to or in conjunction with inns, lodges, hotels, and motels having accommodations for ten (10) or more individual or family rental units. Independent restaurants and/or drive-ins are not to be permitted in this district.

Article VII. RECREATIONAL DISTRICT

Section 7.01 Intent

To provide for the orderly development of land within this district which is compatible with the existing ski, golf, recreational and residential facilities. To take advantage of the uses permitted within the Recreational District the required land area for development (the “Development Lot”) is 80 acres. Within the required Development Lot individual lots for residential or other allowed uses shall meet specific area requirements or overall density requirements or overall density requirements as outlined in this section.

Section 7.02 Uses Permitted:

No building or structure, nor any part thereof, shall be erected, altered or used, or land or premises used, in whole or in part, for other than one (1) or more of the following uses:

- (a) One single family detached dwelling with or without garage for the storage of automobiles and/or boats.
- (b) Multiple family dwellings including townhouses or condominiums.
- (c) Motels and/or hotels consisting of multiple unit dwellings intended for rental. Dining facilities only when ten (10) or more sleeping accommodations are combined in one (1) motel/hotel facility.
- (d) Business and professional offices and clinics offering personal service, not involving the sale of products, and having sufficient off-street parking to accommodate both staff and clientele.
- (e) Private clubs with or without lodging and/or dining facilities.
- (f) Outdoor recreational facilities such as golf courses, ski slopes and lifts, marinas, riding stables, snowmobile trails, and other recreational uses. As part of any such use limited accessory uses, such as small dining facilities and retail areas devoted to the recreational use, may also be permitted as long as such uses are fully confined in the principal building.
- (g) Home occupation as defined in Section 3.28.
- (h) Event venue (e.g., wedding, initiation rites, birthday celebrations) with or without lodging and/or dining facilities as long as confined in the principal building.

(amended January 14th, 2020)

Section 7.03 Required Land Areas for Development Lot:

To take advantage of the uses permitted within the Recreational District the required land area for development (the “Development Lot”) is 80 acres unbroken by any public road, or thoroughfare.

Section 7.04 Building Lot Area:

Within the area of the development lot proposed for use, the following requirements exist for any land that is subdivided into individual parcels or developed as “units” in a site condominium, as follows:

(a) When used for single family residential, any interior parcel that is part of the overall “development lot” shall meet one of the following standards:

- (i) Be not less than 150 feet in average width throughout its length and shall contain not less than 30,000 square feet of area unbroken by any public or private road, street or thoroughfare, or;
- (ii) In order to protect and preserve the environment and the natural features of the recreational zoning district, the concept of the “cluster housing” as provided under this Zoning Ordinance and the Michigan Zoning Enabling Act, may be applied to further preserve open space within the development lot, and approved by the Planning Commission upon proper application. Provided further, however, that in no event shall the number of residential dwelling units (whether single family residential homes, individual units in a condominium or site condominium, units in a townhouse, or units in apartment buildings) exceed an overall density of one (1) dwelling unit per 30,000 square feet of land area devoted to each single family residential unit, or 15,000 square feet of land area devoted to each multiple family residential unit, or a combination of the two (2).

In the event that a “cluster housing” development is proposed for a development lot, contiguous or noncontiguous land in the same zoning district, under ownership and control of the applicant, may be used in computing the average density of the building lot area, provided, however that such noncontiguous land in the same zoning district shall be subject to the recording of appropriate legal restrictions on said parcel to preclude future development.

- (b) In the event an interior building lot is used for multiple family dwellings, whether townhouse, condominiums, or apartment the same shall be on a building lot containing not less than 15,000 square feet of land area for each dwelling unit within the condominiums, townhouse, or apartment building.
- (c) In the event that any interior lot is used for a business, professional office or for a private club, said interior lot shall be not less than 150 feet in average width throughout its length and shall contain not less than 30,000 square feet of area unbroken by any public or private road, street or thoroughfare.
- (d) In the event any interior building lot is used for a motel or hotel, consisting of multiple unit dwellings, the same shall have a building lot containing not less than 15,000 square feet of land unbroken by any public or private road, street or thoroughfare, for the principle building and the first unit, and an additional 5,000 square feet for each additional unit in the building used for rental purposes. Provided further, that any such use shall be limited to one principle building.

Section 7.05 Size of Dwellings:

No single family dwelling shall hereinafter erected, altered or moved, on any land or premises in this district which provides for less than four hundred eighty (480 sq ft) square feet of living area (Effective August 22, 2015). Multiple family dwellings including townhouse and condominiums shall provide a minimum of seven hundred square feet (700 sq ft) of living area per unit. The living

area herein referred to shall mean the outside dimensions of such area, exclusive of attached garages, porches, or other accessory structures.

Section 7.06 Completion:

Any dwelling, structure or accessory building or any addition thereto must be completed on the exterior surfaces with suitable finishing material, including painting or staining in the case of wood, within two (2) years from the date of issuance of the building permit.

Section 7.07 Setback Restrictions:

No building or structure shall be built closer than forty (40) feet to the nearest right-of-way line of any public street thoroughfare. This requirement shall also be subject to the provisions of Section 7.12.

Section 7.08 Side Yard Requirements:

No building, nor structure, nor part thereof, may be erected less than ten feet (10 ft) from the side line or lines of a building lot, nor closer than fifteen feet (15 ft) to a rear lot line. This requirement shall also be subject to the provisions of Section 7.12.

Section 7.09 Designated Land Area:

Anyone desiring to use land in the Recreational District for a permitted use must present a legal description of the minimum area on which said use is to be conducted and upon which no other use will be allowed. The same designated area in whole or in part, cannot be used or counted toward the area requirements of any other permitted use.

Section 7.10 Off-Street Parking:

All developments of land use permitted in this district shall provide off-street parking at a ratio of one (1) automobile to each rental unit. If dining facilities are provided in connection with any of the uses permitted in this district, then off-street parking shall be provided for patrons in a ratio of one (1) automobile to each four (4) persons for which the facility is designed to accommodate, and if the dining facility is attached to a hotel or a motel facility, then one-half (50%) of the parking spaces required for a hotel/motel use, may be counted towards the requirements of the parking spaces for the dining facility. Golf courses shall provide four (4) parking spaces for each hole the golf course has, plus the required spaces for any associated dining facility.

Section 7.11 Dining Facilities Limitations:

Dining facilities in this district shall be limited to those attached to or in conjunction with any of the uses permitted in this district. Independent restaurants and/or drive-ins are not to be permitted in this district.

Section 7.12 Buffer Zone:

A buffer zone of two hundred feet (200 ft) in depth shall be established around the entire perimeter of the district. This area may not be used for any purpose other than open space, and shall not be used towards density requirements in Section 7.04. Except non-overnight parking within the two hundred foot (200 ft) buffer zone may be allowed as part of an approved site plan.

Article VIII. BUSINESS DISTRICT

(Note: Site Plan Review and approval is required of all uses other than single family residential. See Section 4.16 Site Plan Review)

Section 8.01 Business I - Uses Permitted:

No building or structure, nor any part thereof, shall be erected, altered, or used, or any land or premises used, in whole or in part, for any other than one (1) or more of the following specific uses:

- (a) Any use permitted in the Commercial-Resort District (Article VI, Section 6.01 of this Ordinance), except Section 6.01(d) (Mobile Home Parks).

- (b) Retail stores and Service institutions such as:
 - (i) Light repair shops, such as jewelry, television and radio
 - (ii) Printers
 - (iii) Ice cream stores, except drive-through facilities
 - (iv) Barber and beauty shops
 - (v) Hardware stores
 - (vi) Gift or antique shops
 - (vii) Grocery stores and convenience stores with or without the sale of gasoline
 - (viii) Book stores
 - (ix) Drug stores
 - (x) Dry goods and notions
 - (xi) Furniture stores
 - (xii) Household appliances
 - (xiii) Florists
 - (xiv) Restaurants and taverns which provide food or drink for consumption by persons seated within a building that is not part of a drive-in, and may also provide dancing and entertainment.
 - (xv) Hospitals and nursing homes which shall have sufficient off-street parking to provide for both staff and visitors so as to prevent hazards to traffic, pedestrians and residents of the area.
 - (xvi) Municipal and governmental buildings.

- (c) Similar retail business or service establishments, such as custom assembly operations, but not including any use which is permitted for the first time under the provisions of Section 8.02 of Business District II.

Section 8.02 Business II - Uses Permitted:

- (a) Any uses permitted in Business District I, (Section 8.01 of this Ordinance).
- (b) The following business uses:
 - (i) Light manufacturing plants
 - (ii) Warehouses and mini storage facilities
 - (iii) Outside storage, such as boats and trailers
 - (iv) Greenhouses
 - (v) Open air markets
 - (vi) Cable television facilities, towers, commercial wireless communication facilities, and similar communication facilities, provided that any structure that exceeds fifty (50) feet in height must comply with provisions of Article IV Section 4.21 Wireless Communication Overlay Ordinance, including expressly the site and setback requirements. Amended 6/23/2004
 - (vii) Utilities
 - (viii) Garages and gasoline service stations
 - (ix) Lumber yards and dealers
- (c) Similar business uses that are consistent and compatible with the foregoing uses listed above.
- (d) Deleted 6/23/2004

Section 8.03 Uses Excluded:

- (a) Junk yards for storage (temporary or permanent) of used cars or other salvageable materials, are not to be permitted in this district. Equipment and material storage yards equivalent to those related to the construction industry, shall be entirely enclosed with a solid fence no less than six feet (6 ft) high, nor more than eight feet (8 ft) high. Such a fence will be constructed and maintained in such a manner as to meet with the approval of the Zoning Administrator.
- (b) Uses described in Section 6.01 of Article VI Commercial Resort District (Mobile Home Courts)
- (c) Laundries and dry cleaners

Section 8.04 Building Lot Area:

Each structure hereafter erected in the Business District for any of the specific and similar uses allowed in the Business District I (Section 8.01(b) and 8.01(c)) shall be located on a building lot or parcel of land not less than 100 feet in average width throughout its length and containing not less than 30,000 square feet of area; not less than 200 feet in average width throughout its length and consisting of not less than 60,000 square feet for any of the specific and similar uses allowed in Business District II (Section 8.02(b) and 8.02(c)).

Section 8.05

Section 8.06 Land Occupancy by Buildings:

All buildings or structures in this district shall be erected or altered, or used in such a manner that will not result in occupation of more than fifty (50%) per cent of the lot area.

Section 8.07 Setback Restrictions

All buildings and structures in the Business District I shall comply with the following Setback Requirements:

- (a) Front yard or Road: 40 feet from any adjacent lot or road right-of-way.
- (b) Side Yard: 10 feet, except in the case where a side yard abuts a Residential or Agricultural District, in which case the minimum required side yard setback shall be 25 feet.
- (c) Rear Yard: 15 feet, except in the case where a rear yard abuts a Residential or Agricultural District, in which case the minimum required rear yard setback shall be 25 feet.

All buildings and structures in the Business District II shall comply with the following Setback Requirements:

- (d) Front yard or Road: 40 feet from any adjacent lot or road right-of-way.
- (e) Side Yard: 10 feet, except in the case where a side yard abuts a Residential or Agricultural District, in which case the minimum required side yard setback shall be 75 feet.
- (f) Rear Yard: 15 feet, except in the case where a rear yard abuts a Residential or Agricultural District, in which case the minimum required rear yard setback shall be 75 feet.

Section 8.08 Building Size Limitations

No structure shall exceed 35 feet in height above grade.

Section 8.09 Off-Street Parking and Deliveries Access:

Off-street parking (see Minimum Parking Standards - Figure 1) shall be provided either in the area of the side yard, the rear yard, or both. Such parking space shall be sufficient to provide space for one (1) automobile for each two (2) persons the establishment is capable of serving within a reasonable period of time. Access shall be provided for the unloading of goods, supplies, or merchandise, from truck to business establishments without obstructing the public right-of-way.

Section 8.10 Yard Storage:

Wherever a business establishment finds it necessary to store part of its goods, supplies, merchandise or returnable containers outside of the confines of the building structure, it shall provide an enclosure by solid fence or its equivalent, not less than six (6) feet high around the storage area. Such a fence shall be constructed and maintained in a manner which shall meet with the approval of the Zoning Administrator. Such enclosure shall not occupy more than ten percent (10 %) of the lot area.

Section 8.11 License Fee for Open Market:

Open air markets for the sale of fruit, vegetables and other farm products including trees, will be permitted along highways on any farm properties and shall not be subject to any license fee. Such open air markets, however, when located in this district, shall be limited in size to six hundred

(600) square feet, and shall be permitted only on application to the Zoning Administrator for a permit for operation of same and upon payment of an annual license fee. (See Section 13.06 - Fees). Such open air markets located in this district shall be subject to all foregoing provisions relating to buildings and structures in this district.

Article IX. AGRICULTURAL DISTRICT

Section 9.01 Uses Permitted:

No building or structure nor any part thereof shall be erected, altered, or used, or land or premises used, in whole or in part, for other than one (1) or more of the following uses:

- (a) Farms of all types
 - (b) If the Ag-Residential Lot is created as set forth under Section 9.04 only Residential I.
 - (c) Private forests with such harvesting equipment as:
 - (i) Sawmills requiring less than 10,000 square feet of structure
 - (ii) Maple syrup reducing plants
 - (d) Nurseries and greenhouses.
 - (e) Commercial riding stables (subject to the provisions of Section 9.09).
 - (f) Mining, including extracting of sand, gravel or other natural resources (subject to the provisions of Section 9.08).
 - (g) Cemeteries
 - (h) Parks or private conservation areas.
 - (i) Home occupation, same as Section 3.30.
- 10. Home Business** (subject to the provisions of Section 9.10)

Section 9.02 Contiguous Zone:

Where any other zone is contiguous to a farm located in an agricultural district and forms a part of that farm, all farm uses and activities permitted in the agricultural district may be conducted on such contiguous land except those activities described in Section 9.01(c) and 9.01(f).

Section 9.03 Required Land Area:

Except as may be required by generally accepted agricultural management practices determined by the Michigan Commission of Agriculture, no use other than farm activities without a structure or the creation of a Section 9.04 - Ag-Residential Lot shall occur or building built on a parcel of land less than ten (10) contiguous acres in size by any public road, street or thoroughfare, provided that this shall not prevent the use of a parcel of land of lesser size that was of legal record or had been laid out by a surveyor prior to the effective date of this ordinance. Nothing herein shall preclude the establishment of a private cemetery as provided by statute.

Section 9.04 Number of Dwelling Units Permitted on Any Given Parent Parcel.

(a) **Intent:**

No total number of dwelling units, including farm and non-farm, may be erected on lots created from a parent parcel than would exceed the permitted density of one dwelling unit per each ten acres of the parent parcel in the Agricultural District. However, any dwellings existing on or prior to September 29, 1993 which are sited on lots less than 10 acres may

continue as non-farm dwelling units which are not subject to the nonconforming lot restrictions of Section 9.03.

Within Cleveland Township's Agricultural District there are lands which are difficult to develop within the limits of the existing zoning framework but are capable of being developed appropriately if certain provisions of the Ordinance are relaxed. It is with the following intentions that this section is adopted:

- (i) To allow a more practical latitude to the landowner in the residential development of land in the Agricultural District without creating a new public service burden for the Township.
- (ii) To encourage creative planning techniques, especially clustering of residential development, in such a way as to retain large unbroken agricultural and forested tracts.
- (iii) To respond to the desire of large parcel owners to sell a limited number of parcels of less than 10 acres for residential use.
- (iv) To encourage development in a manner compatible with existing natural features and surrounding land uses.
- (v) To preserve and retain the rural character as well as the practicality and economic feasibility of agriculture of the Township.

(b) Requirements for Use

Proposed Ag-Residential Lots may be created from a parent parcel for residential use provided that the following conditions are met:

- (i) Creation of the Ag-Residential Lot shall not result in the overall density of the parent parcel exceeding one residential dwelling unit per each 10 acres.
- (ii) More than four (4) Ag-Residential Lots created from any parent parcel shall require review and approval of the Cleveland Township Planning Commission and the Township Board under the provision of Section 4.16 Site Plan Review.
- (iii) Creation of Ag-Residential Lots shall not result in the creation of any lot which has no remaining home site. Effectively the formula for determining the number of Ag-Residential Lots which can be created is:

Parcel Size in acres divided by ten minus any existing homes or one (if the parcel is vacant as of the effective date of this ordinance).

- (iv) All property involved in an Approved Final Site Plan shall be considered necessary to meet minimum density requirements. Ag-Residential Lots created under this option may not be divided. Any sale or conveyance of the Restricted Open Space land created under this option must be reported to the Zoning Administrator at time of conveyance. Any action which violates the terms of the Approved Final Site Plan or results in construction of a dwelling

unit which exceeds the density requirements of the Agricultural District is a violation of this Ordinance.

- (v) No land use permit for residential construction shall be issued by the Zoning Administrator for a residence on a lot divided from the parent parcel if it would result in the overall density of the parent parcel to exceed one residential unit per each 10 acres.
- (vi) The Cleveland Township Planning Commission shall review each proposed Ag-Residential Lot in accordance with procedures set forth in this section.
- (vii) Subsequent to the date of adoption of this ordinance, when parcels of land larger than 20 acres are transferred from the parent parcel, the parcel created will be assigned one home site per each ten acres minus any existing homes, unless the Township Zoning Administrator is notified prior to the sale that a different number of development rights have been assigned to the parcel sold, and provided that the parent parcel shall always retain at least one home site.
- (viii) **General Size Requirement and Uses**
Each Ag-Residential Lot shall contain at least 2 acres with a minimum width of 200 feet. Ag-Residential Lot for residential use shall also be restricted to uses "5.02(a)" and "5.02(c)" as permitted under Section 5.02 (Residential 1), building size requirements for Residential II (Section 5.06), setback restrictions of Section 5.08.
- (ix) **Large Projects (More than four (4) Ag-Residential Lots)** Up to four (4) Ag-Residential Lots may be created from each parent parcel provided that the overall density of one dwelling site per ten acres is not exceeded. If more than four (4) Ag-Residential Lots are to be created from a given parent parcel then the following provisions shall apply:
 - 1) **Submittal Requirements.** The applicant shall comply with the provisions of Section 4.16 Site Plan Review
 - 2) **Lot Size and Waiver Requirements.** Ag-Residential Lots shall contain at least 2 acres with a minimum width of 200 feet (see Section 9.04(b)(viii)). The Township may waive this requirement when more than four (4) Ag-Residential Lots are created under the provisions of Section 4.16 Site Plan Review. Approval of this waiver requires that lots be clustered using one common access drive from the public road to access the individual Ag-Residential Lots. No lot created under this waiver shall be less than 30,000 square feet in size or have a minimum width of less than 150 feet. A waiver may be granted for any of the following reasons:
 - a) to take advantage of common water and/or septic facilities.
 - b) to avoid disturbance to wetlands, steep slopes, or other sensitive areas.
 - c) to preserve maximum restricted open space on the property.
 - d) to allow landowners to cluster smaller lots.
 - 3) **Approval of Large Projects.** Approval for the creation of more than four (4) Ag-Residential Lots shall be granted by the Planning Commission if the following criteria are substantially met:

- a) the project is designed and constructed to minimize loss of agricultural, forest, and scenic resources
- b) the project provides for maximum conservation of environmentally sensitive lands such as wetlands, steep slopes, and wildlife habitat
- c) the project does not unduly burden the capacities of public services and facilities.
- d) the project does not unnecessarily inconvenience or impede upon the reasonable use and enjoyment of property of neighboring land owners.

(c) Application and Date Required

An application for Ag-Residential Use shall be submitted to the Cleveland Township Zoning Administrator. Application shall be made by the owner(s) of record or the approved agent of the owner(s). Each application form shall contain at a minimum the following required information:

- (i) Name(s), address(s), and telephone number(s) of
 - 1) Owner of record
 - 2) Applicant, if other than owner
 - 3) Person responsible for preparation of plan, if other than owner.
 - 4) Tax Parcel ID #
- (ii) A legal description and map of the parent parcel. The map shall clearly identify the Ag-Residential Lots and the Restricted Open Space proposed to be created under the application.
- (iii) An area map, to the best of the applicants' knowledge showing the ownership and uses of adjacent properties within 300 feet of the land proposed for Ag- Residential use.
- (iv) If more than four (4) Ag-Residential Lots are created under the final Ag- Residential Lot Plan, then a surveyor's legal description and map of the parent parcel, Ag-Residential Lots, and Restricted Open Space shall be included.

(d) Procedure and Approval Process

The Zoning Administrator shall supply copies of the Ag-Residential Lot Plan application to the Planning Commission for consideration at its next regular meeting. The Planning Commission shall approve, approve with modifications, or deny the Ag-Residential Lot Plan. Projects not requiring Site Plan Review or waiver of lot size requirements under 9.04.2.h. of this ordinance shall be approved if all application requirements are met.

If, after review, the Planning Commission requires modification of an Ag-Residential Lot Plan, such modifications shall be included in the Approved Final Site Plan.

Section 9.05 Setback Restrictions:

All buildings and structures shall meet all setback and side yard requirements set forth in Article V of this ordinance and provided further, that driveways leading to them conform to Section 4.06(d)

Section 9.06 Seasonal Help Housing:

All temporary living quarters for the use of seasonal and itinerant farm employees and migratory workers shall conform to state laws. These living quarters shall be located not less than two hundred (200) feet from the frontage on any right-of-way.

Section 9.07 Roadside Stands:

Such stands shall be permitted only for the sale of farm products produced on the premises. These stands may be located along the right-of-way of the highway providing this location is a part of the farm which produced the farm products being sold. Off-highway parking shall be provided for public safety. There shall be no license fee for a roadside stand in this district.

Section 9.08 Mining, Sand and Gravel Extraction, and Removal of Topsoil:

No topsoil shall be removed or extraction of sand, gravel, or minerals be permitted within two hundred (200) feet of any public highway, nor within fifty (50) feet of any side or rear lot lines, nor within two hundred (200) feet of any side or rear lot lines of any lot adjoining land zoned for residential use. The following provisions shall also apply

- (a) When an open pit mine or gravel pit has ceased to be worked regularly, any "attractive nuisance" features such as steep banks or holes that could provide a hazard to public safety shall be promptly rough graded so as to remove such hazards to public safety. Furthermore, any open pit mine or gravel pit that has ceased to work regularly for a period of one (1) year shall be rough graded in such a manner as to restore the land to contours harmonious with those of surrounding terrain.
- (b) Not more than two (2) acres shall be actively mined at any one time. Non-active gravel operations shall be reclaimed under provisions of Section 9.08(a) above.
- (c) On-site processing facilities shall be limited to sorters and crushers to be used only for processing and exporting on-site materials. Such facilities shall not be permanent, and shall not remain on the site for longer than 6 months. Asphalt plants are not permitted.

Section 9.09 Commercial Riding Stables and Kennels:

The following provisions shall apply;

- (a) Commercial riding stables shall not be located within 100 feet of any adjoining property line or within two hundred feet (200 ft) of any existing dwelling on adjacent or residentially zoned property.
- (b) Kennels which board not more than 10 animals shall not be located within 200 feet of any adjoining property line or within 400 feet of any existing dwelling on adjacent property or residentially zoned property. Kennels which board more than 10 animals, up to a maximum number of 30 animals, shall be located on a minimum 40 acre parcel and shall not be located within 500 feet of any adjoining property or 1000 feet of any existing dwelling or residentially zoned property.

Section 9.10 Home Business

1. Intent

In order to provide reasonable economic opportunities to residents of the Agricultural District, limited Home Businesses shall be permitted to operate when such Businesses are found to be

consistent with the rural character of the District, and when such businesses pose no appreciable nuisance to neighboring property owners.

2. Requirements and Standards for Use

A Home Business may be allowed by special land use permit by the Planning Commission provided that the following conditions are met:

- a. The operations are entirely indoors showing no external evidence that the premises are being used for a home business other than one identification sign no more than four square feet in area.
- b. The space dedicated to the occupation, trade or craft shall not exceed 50% of the total floor space of a dwelling when located within a residential dwelling, or 1600 square feet when the Home Business is located within an accessory building.
- c. The operations are located upon a lot in the Agricultural District no less than ten acres in size.
- d. The operations are owned and conducted by a person or persons residing on the lot, plus no more than two other employees (full-time employee equivalents). The maximum number of total employees shall not exceed four.
- e. The operations are clearly incidental and subordinate to the principal use of the premises for residential and/or agricultural purposes.
- f. Any goods that are sold from the premises must be produced on the property and must be directly related to the occupation, trade or craft conducted therein.
- g. Traffic and delivery or pickup of goods shall not constitute a nuisance or present a safety hazard to nearby property owners.
- h. On site parking must be provided for and used by employees and delivery personnel.
- i. The building where a Home Business is conducted shall have direct access to a public road; or if access is provided from a private road or easement, the owner of the Home Business shall provide proper documentation showing the proposed Home Business meets the rights and uses of the private road or easement, or shall secure written consent from all necessary parties to use the private road or easement for the proposed Home Business.
- j. The building which houses a Home Business shall be set back no less than 50 feet from any adjoining property line.
- k. The occupation, trade or craft does not constitute a nuisance or annoyance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises.
- l. Hours of operation for home business shall be limited to Monday – Friday 7:00am to 7:00pm and Saturday/Sunday 9:00am to 5pm.

3. Application Process

An application for Home Business use shall be submitted to the Cleveland Township Zoning Administrator. Each application shall contain at a minimum the following required information:

- a. Name(s), address(s), and telephone number(s) of:
 - i. Owner of record
 - ii. Person responsible for preparation of application
 - iii. Tax Parcel ID #(s)

- b. A legal description and map of the parcel on which the Home Business is proposed to be located. The map shall clearly indicate the size and location of buildings and structures in which the Home Business will be located.
- c. An area map, to the best of the applicant's knowledge, showing the ownership and uses of adjacent properties within 300 feet of the proposed Home Business.
- d. A summary of the proposed Home Business use, the number of employees, the hours of operation, the anticipated amount of traffic generated, and the anticipated number of vehicles requiring parking on a daily basis.
- e. A permit fee will be charged by the Cleveland Township Board.
- f. The applicant shall agree in writing to allow an annual inspection by the Zoning Administrator with notice.

4. Procedure and Approval Process

The Zoning Administrator shall supply copies of the Home Business application to the Planning Commission for consideration at its next regular meeting. The Planning Commission will hold a Public Hearing and following that hearing shall approve, approve with modifications, or deny the Home Business application, and shall present its findings in writing as to whether the above standards are met.

5. Issuance of Permit, Inspection, and Termination of Home Business Use

- a. The Zoning Administrator shall issue a permit to operate a Home Business following the approval of the Planning Commission.
- b. Home Businesses shall be subject to an annual inspection by the Zoning Administrator to assure continued compliance with the provisions of the Zoning Ordinance.
- c. Home Business use may be terminated by order of the Zoning Administrator whenever such use fails to comply with the Zoning Ordinance.
- d. The Cleveland Township Zoning Board of Appeals shall have final authority to determine whether or not a proposed use complies with the Zoning Ordinance and is within the spirit of the same.

Article X. GOVERNMENT DISTRICT

Section 10.01 Uses Permitted:

The land and premises in this district may be used only for recreational park purposes such as picnic grounds, public lookouts, public camping grounds, forest reserves, wildlife reserves, public recreation areas, but excepting public waste facilities which are under the control of the Township of Cleveland.

The land and premises within this district will only be used for purposes established by Cleveland Township and in compliance with Cleveland Township zoning ordinances. Land under government authority other than the Township of Cleveland, County of Leelanau, is outside the jurisdiction of Cleveland Township zoning ordinances.

Article XI. PROHIBITED USES

Section 11.01 Any Obnoxious Uses:

No building or structure or part thereof shall be erected, altered or used, or land used in whole or in part, any process or activity resulting in the emission of odor, fumes, dust smoke, waste, noise, or vibration which shall make it obnoxious to the public interest, health, or welfare or is in violation of state or federal law.

Section 11.02 Nuisance Per Se:

Uses of land and dwellings, buildings or structures, including tents and mobile homes used, erected, altered, razed or converted in violation of any provision of this Ordinance or regulations adopted under authority of this Ordinance, are hereby declared to be a nuisance per se. The court shall order such nuisance abated, and the owner and/or agent in charge of such land, dwelling, building, structure, tent, or mobile home, shall be adjudged guilty of maintaining a nuisance per se.

Section 11.03 Outdoor Storage:

No land in any of the foregoing districts shall be used in whole or in part for the outside storage of unused or discarded equipment or materials, or the storage of unlicensed cars, boats, salvage, waste and junk within said districts, except as follows:

- (a) Used equipment kept for parts or later use on an active farming or business operation, unless such storage constitutes a health or safety hazard.
- (b) As provided for in Article VIII, Section 8.09, Yard Storage.
- (c) Two unlicensed vehicles and/or boats for a period not to exceed two years.

Article XII. ENFORCEMENT - PENALTIES FOR VIOLATION

Section 12.01 Violations:

1. Any violation of any provision of this Ordinance or any permit, approved site plan, license or exception granted hereunder, or any lawful order of the Zoning Administrator, Board of Appeals, Planning Commission, Township Board, or their designated representative issued in pursuance of the Ordinance shall be a municipal civil infraction. A "Violation" includes any act which is prohibited or made or declared to be unlawful or an offense by this ordinance and any omission or failure to act where the act is required by this Ordinance.
2. The sanction for any violation of this Ordinance which is a municipal civil infraction shall be a civil fine as provided in Section 12.1 of this Ordinance, plus any cost, damages, expenses and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1962, as amended, and other applicable laws.
3. The Zoning Administrator, and the Leelanau County Sheriff's Officers, are the Township officials authorized to issue municipal civil infraction citations and municipal civil infraction violation notices for the violations of this Ordinance.

4. Procedures
 - A. Notice of Violation.

The Zoning Administrator shall inspect each alleged or apparent violation. Whenever the Zoning Administrator determines that a violation of this ordinance exists, said Zoning Administrator shall issue a notice of violation or an appearance ticket, in writing, which specifies all circumstances found to be in violation.

- B. Service of Notice.

Such notice shall be directed to each owner of, or party of interest, in whose name the property appears on the last local tax assessment records. All notices shall be served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to such owner or party of interest at the address shown on the tax records.

- C. Violation Correction Period.

All violations shall be corrected within a period of thirty (30) days after the zoning violation is issued. Should a violation not be corrected within this time period, The Zoning Administrator shall notify the owner, or party of interest, in writing, of the time and place of a hearing to be held before the Township Board on the conditions causing the notice of violation. At said hearing, the person to whom the notice is addressed shall have the opportunity to show cause why said violation should not be ordered to be corrected or why said action would cause an undue hardship.

D. Hearing Before Township Board.

The Township Board shall take testimony of the Zoning Administrator, the owner of the property, and any other interested party or witness. Following the hearing, the Township Board shall make written findings as to the nature and the extent of the violation, if any, and extenuating circumstances, if any. The Township Board may extend the time by which the violation(s) must be corrected for a period not to exceed six (6) months.

E. Legal Action.

If the owner or party of interest fails to appear, or neglects to correct the violation within the time period specified by the Township Board, The Township Board shall transfer a report of their findings to the Township Attorney recommending that the appropriate action be taken. The Township Attorney may then initiate prosecution proceedings. If the threat to public health or safety necessitates immediate action, this procedure may be omitted and the Township Board may initiate injunctive in Circuit Court or any other remedy provided by Law.

F. Penalties.

Any person, partnership, limited liability company, corporation or association who creates or maintains a nuisance per se of this ordinance or who violates or fails to comply with any provision of the Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal infraction and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Every day that such a violation continues shall constitute a separate and distinct offense under the provisions of this Ordinance.

Article XIII. Administration

A Zoning Administrator shall be appointed by and shall serve on such terms as shall be determined by the Township Board; provided that the Zoning Administrator shall not be a member of the Township Board, the Planning Commission, nor the Board of Appeals. The Zoning Administrator shall perform such duties as the Township Board may prescribe, in addition to any duties prescribed in this Ordinance. The Zoning Administrator shall serve at the pleasure of the Township Board.

Section 13.01 Eligibility:

To be eligible for appointment, the Zoning Administrator shall be generally informed on good building construction, on good practice in fire prevention, and the proper installation of safety, health and sanitary facilities. He or she shall be in good health and physically capable of fulfilling his or her duties. In case he or she is personally interested in the construction of any building subject to the provisions of this code, the Township Board shall designate some other person to examine the plans, to inspect such building and to issue the necessary permits, approvals, and certificates.

Section 13.02 Duties and Powers of Zoning Administrator:

The Zoning Administrator shall enforce this Ordinance and in furtherance thereof.

- (a) Issue all zoning certificates, building permits, and certificates of compliance, and maintain records thereof.
- (b) Conduct inspection of all buildings and structures, and the use of all lands subject to the provisions of this Ordinance to determine compliance.
- (c) Maintain permanent and correct records of this Ordinance including, but not limited to maps, amendments, special use permits, variations, and appeals.
- (d) Investigate all applications for variances and special permits and report his findings to the Township Board.
- (e) Initiate appropriate action to prevent, restrain, correct or abate any illegal act or violation of this Ordinance with the consent of the Township Board.

Section 13.03 Land Use Permits:

A Land Use Permit application must be submitted to the Zoning Administrator for the following: All projects including structures, and construction of private roads, driveways, or easements that require grading, addition of stone, gravel, sand, cement, asphalt, or other road materials. Private roads, driveways, easements, or structures requiring a Land Use Permit shall meet local fire department standards; this requirement may be satisfied by providing a letter of approval from the local fire department.

(amended January 14, 2020)

Section 13.04 Denial of Permit:

The Zoning Administrator shall promptly inform the applicant of the denial of a "Land Use Permit" if, in his or her opinion, such planned building or structure, or land use, does not comply with the provisions of this Ordinance.

Section 13.05 Fees:

- (a) Fees shall be paid prior to the issuance of a Land Use Permit, Annual License, or upon application for an Ordinance Amendment or Appeal, Site Plan Review, and other related reviews, in accordance with the Schedule of Fees established by resolution at a regular meeting of the Township Board.
- (b) Fees shall be established for the issuance of a Land Use Permit for the following purposes: a single family dwelling; an accessory use or building; an addition to a single family dwelling; additions to or remodeling of a building other than a single family dwelling; a commercial sign; and any new building other than the foregoing. Fees may be established for agricultural purposes.
- (c) Fees shall be established for the issuance of an Annual License for an Open Air Market (Section 8.10).
- (d) Fees shall also be established for Ordinance Amendments or Appeals in order to help defray the cost of printing, investigation, notices, and any other costs required by such procedures.
- (e) The payment of the fee for an Amendment or Appeal may be waived by the Township Board if it can be shown that the fee creates an undue hardship to the applicant. Specific information may be required of the applicant regarding his or her financial status in order to determine individual hardship.
- (f) Fees for Land Use Permits or Annual Licenses shall be paid to the Zoning Administrator. Fees for Ordinance Amendments and Appeals shall be paid to the Secretary of the Planning Commission and Zoning Board of Appeals, respectively. All fees shall be turned over to the Township Treasurer for the Township General Fund.
- (g) A schedule of fees shall be adopted from time to time by resolution of the Township Board establishing the fees for all licenses, permits, applications, or other activities for which a fee is required under this Zoning Ordinance.

Article XIV. ZONING BOARD OF APPEALS

Section 14.01 Creation:

A Zoning Board of Appeals is hereby established.

Section 14.02 Membership:

There shall be five (5) members of the Zoning Board of Appeals as follows:

- (a) A member of the Planning Commission.
- (b) The remaining members must be selected from electors residing in the unincorporated portion of the Township. The membership must be representative of the population and interests present in the Township. One (1) member may be a member of the Township Board, provided such member shall not serve as chairman of the Board of Appeals. The Township Board shall appoint all members.
- (c) The term of each member is three (3) years, except for members serving because of their membership on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of the Planning Commission or Township Board, respectively. When members are first appointed, two (2) members serve for two (2) years and the remaining members serve for three years. A successor must be appointed within one (1) month.
- (d) An employee or contractor of the Township may not serve as a member or employee of the Zoning Board of Appeals.
- (e) A member of the Zoning Board of Appeals must disqualify him or herself from a vote in which he has a conflict of interest. Failure to disqualify constitutes misconduct in office.
- (f) The Township Board may appoint to the Zoning Board of Appeals not more than 2 alternate members for the same term as regular members. An alternate member may be called as specified in the zoning ordinance to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend 1 or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which a member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. An alternate member serving on the Zoning Board of Appeals has the same voting rights as a regular member.

Section 14.03 Per Diem:

Members of the Zoning Board of Appeals may be paid an amount per diem, plus expenses actually incurred such amount to be determined by the Township Board, if appropriation for such payment is made in advance by the Township Board.

Section 14.04 Procedure:

The Zoning Board of Appeals shall appoint one (1) of its members to be Chairman, and one (1) to be Secretary, and it shall establish rules and regulations to govern its procedure when acting upon appeals. A majority vote of its members shall be required to reverse any decision or determination of the Zoning Administrator, or to approve any variation in the application of this Ordinance.

Section 14.05 Public Meetings:

All meetings of the Zoning Board of Appeals shall be open to the public and to the press.

Section 14.06 Powers:

The Zoning Board of Appeals is empowered to act upon the following matters and upon no others:

- (a) Questions arising in the administration of this Ordinance, including interpretation of the Cleveland Township Zoning Map.
- (b) All matters which this Ordinance properly refers to the Zoning Board of Appeals for determination.
- (c) Appeals from actions of the Zoning Administrator.
- (d) Cases in which strict application of the provisions of this Ordinance would result in undue hardship provided that the spirit of this Ordinance is observed even though certain restrictions may be waived to provide substantial justice.

Section 14.07 Appeals, How Made:

Any individual, corporation, association, officer, department, board, or bureau of the state, county or township, may appeal any determination of the Zoning Administrator for review by the Zoning Board of Appeals. Such appeal shall be made within such time as shall be prescribed by the Zoning Board of Appeals by general rule, and in such manner as the Zoning Board of Appeals shall establish.

Section 14.08 Stay of Proceedings:

An appeal stays all proceedings in the action appealed.

Section 14.09 Hearings:

The Zoning Board of Appeals shall fix a reasonable time for hearing of an appeal and shall give due notice thereof to all parties concerned, and shall decide the issue in a reasonable time, said decision to provide that the spirit of this Ordinance shall be observed, public safety secured and substantial justice done.

Section 14.10 Further Appeal:

Any decision of the Zoning Board of Appeals may be appealed to the 13TH Circuit Court.

Section 14.11 Michigan Zoning Enabling Act

Appeals to the Zoning Board of Appeals, and all of the powers and duties of the Zoning Board of Appeals and the procedures to be followed in connection therewith shall be as set forth in the Michigan Zoning Enabling Act.

Article XV. SEPARABILITY

Section 15.01 Validity:

If any clause, sentence, sub-sentence, paragraph, section, or part of this Ordinance be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, sub-sentence, paragraph, section, or part directly involved in the controversy in which said judgment shall have been rendered.

Article XVI. EFFECTIVE DATE

Section 16.01 Effective Date:

This ordinance amends the ordinance which was adopted February 19, 1966, and shall take effect on October 15, 1973. With all other amendments to this Ordinance up to and including that, this Ordinance was adopted by the Cleveland Township Board on July 14, 2015, published on July 23, 2015, and was effective August 22, 2015.

**CLEVELAND TOWNSHIP
LEELANAU COUNTY**

ORDINANCE NO. 2021-1

AMENDMENT TO THE CLEVELAND TOWNSHIP ZONING ORDINANCE

**AN ORDINANCE TO AMEND ARTICLE IV. GENERAL PROVISIONS,
SECTION 4.27 WATERSHED PROTECTION**

CLEVELAND TOWNSHIP HEREBY ORDAINS:

Amendment of Article IV “General Provisions” of Zoning Ordinance:

Add:

Section 4.27 Watershed Protection

Purpose:

1. The purpose of this ordinance is to protect the quality of water resources within the watersheds in Cleveland Township and to ensure that the structures and uses in the township are compatible with and protect these unique resources. Other specific purposes include:
 - a) The prevention of water pollution and water quality degradation.
 - b) The conservation of natural shoreland areas.
 - c) Conservation of watershed hydrology by managing stormwater to protect the natural hydrologic regime, especially as it relates to the quantity of runoff versus infiltration and groundwater recharge.
 - d) Protection against the negative impacts of nutrient loading, erosion, and stormwater runoff.
2. The protection of our watersheds is deemed a high priority by Cleveland Township residents, as reflected in the Master Plan (adopted 10/2017). Watershed protection is an important public purpose to protect public health and welfare and to conserve natural beauty and the environmental, historical, recreational, cultural, scenic and economic attributes of the watersheds and region.
3. Ordinance Section 4.27 applies to all property bordering Water as defined in Section 3.80.
4. All other requirements shall be as required by the underlying zoning district, except that where specific requirements of the Watershed Protection vary or conflict with the regulations contained in the underlying zoning district, the stricter shall govern.

Definitions:

1. Hardened Seawall: A stationary, permanent seawall composed of non-permeable, hard material.
2. Lot Coverage: The part or percent of a lot occupied by impervious surfaces, including, but not limited to, buildings or structures, paving, drives, patios, and decks.
3. Low Impact Development (LID): Stormwater management practices that promote the infiltration of rainwater and recharge of groundwater (as opposed to the conveyance of stormwater off-site). The purpose of LID is to mimic a site’s pre-development hydrology by using design techniques to retain runoff close to its source. LID may include any of the following: bio-retention basins (i.e., rain gardens), infiltration trenches, porous pavement, grassed swales, perforated pipe, dry wells, rain barrels, and cisterns or other technologies or practices that reduce runoff.

4. Natural Vegetative Cover: Natural vegetation, including native species of bushes, shrubs, groundcover, and trees on a lot. Lawn shall not qualify as natural vegetative cover.
5. Shoreline: The water's edge as defined in Section 3.81 of water Section 3.80.
6. Shoreline Vegetative Buffer: The land area inland from the shoreline maintained in natural or planted vegetation, excluding lawns.
7. Impervious surface: Impervious surface means an area that prevents or impedes the infiltration of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious.
8. Permeable: Permeable means any surface or material that allows the passage of water through the material and into the underlying soil.

Shoreline Vegetative Buffer:

1. Intent: The purpose of the shoreline vegetative buffer is to protect the lakes and streams of the Township by preserving natural shoreline vegetative cover and habitat, preventing soil erosion, and providing a filter for the removal of pesticides, fertilizers, and other potential water pollutants.
2. A shoreline vegetative buffer bordering water, as defined in Section 3.80 of the Township Zoning Ordinance, shall be maintained. Mowed lawn shall not qualify as natural vegetative buffer under this section. The minimum width/depth of the buffer, as measured from the shoreline inland, shall be 30 feet.
3. Within the shoreline vegetative buffer, no more than an aggregate of 20 percent of the shoreline may be cleared, provided that the clearing does not cause erosion or sedimentation. Vegetation may be removed for a single view corridor, or selective vegetation removed to provide for a filtered view throughout the shoreline, provided the cumulative total of vegetation removed does not exceed 20 percent of the shoreline.
4. Selective trimming of tree branches to allow for filtered views is permitted within the shoreline vegetative buffer.
5. The use of pesticides, herbicides, and fertilizers within the shoreline vegetative buffer is prohibited.
6. Limited clearing of the vegetative buffer is allowed when required for construction of a permitted structure outside the vegetative buffer, provided that the land cleared is returned to a vegetative state of the same quality that existed prior to clearing and is equally effective in retarding runoff, preventing erosion, and preserving natural beauty, and the functionality of the vegetative buffer.
7. These provisions shall not apply to the removal of invasive, exotic, noxious, dead, diseased, or dying vegetation or trees that are in danger of falling, causing damage to dwellings or other structures. Property must be revegetated with native Midwest vegetation.
8. The shoreline vegetative buffer shall not be used for any motorized vehicular traffic, parking, or for storage of junk, waste, or garbage, or for any other use not otherwise authorized by this Ordinance.

Hardened Seawalls:

1. Hardened seawalls are prohibited.

Fertilizer Use:

1. Intent: To limit the use of phosphorus-laden lawn fertilizers that accelerate lake eutrophication.
2. Consistent with state law, lawn fertilizer containing phosphorus shall not be applied unless a new lawn is being established or a soil test documents a phosphorus deficiency. Agricultural fertilizer applications are exempt from this requirement.

Lot Coverage and Natural Vegetative Cover:

1. Intent: To minimize impervious surfaces and runoff and promote the natural infiltration and recharge of groundwater in the watersheds.

2. For all development bordering Water (defined in Section 3.80 Township Zoning Ordinances), excluding business zoned properties, the following Lot Coverage and Natural Vegetative Cover provisions shall apply:
 - a) Lot Coverage: The maximum lot coverage shall not exceed 25% of the entire lot area. The use of pervious pavement for driveways and patios is encouraged and may be excluded from the calculation of lot coverage.
 - b) Natural Vegetative Cover: Lots shall maintain a minimum of thirty percent (30%) of the entire lot area in natural vegetative cover. To the extent practical, natural vegetative cover shall be maintained along lot lines, natural drainage courses, and wetlands. Shoreline Vegetative Buffer required by this Ordinance may be included as part of the Natural Vegetative Cover.
 - c) In the case of planned unit developments, site condominiums, and open space developments, each individual lot need not meet the requirements of this Section, provided that the total project or an individual phase of a project meets the requirements of this Section.

Stormwater Management:

1. Intent: This provision is intended to preserve natural drainage systems to encourage infiltration and to minimize the need to construct enclosed, below-grade storm drain systems; to preserve natural infiltration and the recharge of groundwater and to maintain subsurface flows which replenish lakes, streams, and wetlands and maintain water quality; and to ensure that soil erosion, sediment, and stormwater runoff control systems are incorporated into site planning at an early stage in the planning and design process.
2. As of the effective date of this Ordinance, stormwater shall be managed in accordance with low impact development (LID) design principles that promote the infiltration of rainwater and recharge of groundwater (as opposed to the conveyance of stormwater off-site). Where feasible, steps shall be taken to retain and infiltrate stormwater on-site via LID practices. All lots shall retain stormwater runoff on-site or detain it so as to allow discharge without any impact on adjacent lands, streams or water bodies beyond the existing predevelopment runoff impact.
3. Lands within Cleveland Township Watersheds are deemed environmentally sensitive areas having a high potential for environmental degradation as a result of soil erosion and stormwater runoff and are thus subject to the standards contained within Leelanau County's Soil Erosion, Sedimentation and Stormwater Runoff Control Ordinance. On all lands within the watersheds, a land use or building permit shall not be granted until a permit or waiver has been issued by the Leelanau County Enforcing Agency (i.e., the Leelanau Conservation District) in accordance with the Leelanau County Soil Erosion, Sedimentation and Stormwater Runoff Control Ordinance.

General Design and Development Standards:

1. Intent: The general design and development standards are intended to minimize the impact of development on the land and water resources of the watersheds.
2. Natural vegetation shall be maintained wherever possible.
3. Existing mature trees shall be maintained on site where feasible. The developer must demonstrate how trees will be protected during construction.
4. To the extent feasible, natural drainage areas shall be protected from grading activity. Where possible, existing natural runoff control features such as swales, berms, and shallow depressions shall be retained to help reduce runoff and to encourage infiltration of stormwater.
5. Grading shall be conducted to minimize undue compaction of site soils.
6. Buildings and structures shall be clustered as much as possible to retain open space and surrounding tree cover, and to minimize changes in topography.
7. Clearing of land is prohibited without appropriate approval and mitigation plan from the Township except when land is cleared and cultivated for an agricultural, forestry, or garden use in a district permitting such use.
8. The smallest practical area may be exposed at any one-time during development. When land is exposed during development, the exposure shall be kept to the shortest practical period of time.

9. Where feasible, private roads and driveways shall be located along natural contours in order to minimize cutting and filling and the potential for erosion.
10. Appropriate measures shall be taken to prevent adverse impacts to neighboring properties or the quality of area water resources from stormwater drainage.
11. Low Impact Development (LID) shall be used where practical and, to the extent feasible, stormwater shall be retained on-site.

APPROVALS:

1. Intent: To provide a process that requires all development bordering water (as defined in section 3.80) to be reviewed to ensure full compliance with requirements of this ordinance.
2. For development requiring a site plan in accordance with Cleveland Township Zoning Ordinances, site plan approval shall be obtained prior to development. For parcels subject to the Township's site plan review standards, site plans shall include all information required for site plan review as well as the following:
 - a) Existing natural features such as mature trees, wetlands, steep slopes, soil types, drainage and water features, and a narrative description of how natural areas will be preserved.
 - b) The ordinary high-water mark and proposed shoreline vegetative buffer (if applicable).
 - c) The placement of proposed structures; grading limits; areas where vegetation is proposed to be cleared.
 - d) A calculation of the percent Lot Cover and percent Natural Vegetative Cover.
 - e) Existing structures on the subject property.
 - f) Low impact development stormwater management controls proposed to be used on the site.
3. For development not subject to site plan review, a plot plan drawn to scale meeting the requirements of 2 above must be submitted to the Township's zoning administrator for administrative review and approval prior to the issuance of a building permit.
4. Development covered by the Watershed Protection Ordinance must conform with all applicable County, State, Federal, and Township statutes and ordinances including, but not limited to, the Leelanau County Soil Erosion, Sedimentation and Stormwater Runoff Control Ordinance, Part 301 (Inland Lakes and Streams) of the Natural Resources and Environmental Protection Act and, septic and well approvals from the Benzie-Leelanau District Health Department.

Effective Date:

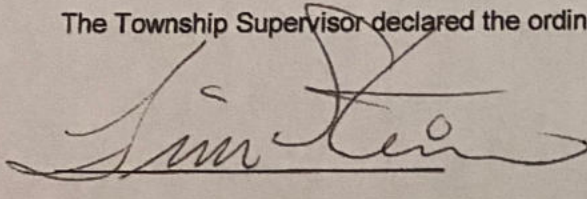
This Ordinance shall become effective thirty (30) days after publication in accordance with law.

At a regular meeting of the Township Board for Cleveland Township held on the 14th day of September, 2021, Todd Nowak moved for adoption of the foregoing ordinance and Jan Nowak supported the motion.

Voting for: Jan Nowak, Todd Nowak, Tim Stein, Tanelle Budd, Angie Diotte

Voting against:

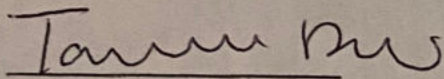
The Township Supervisor declared the ordinance adopted.

 9/17/21

Tim Stein, Township Supervisor

CERTIFICATION

The foregoing is a true copy of Ordinance No. 2021-1 which was enacted by the Township Board for the Cleveland Township at a regular meeting held on September 14, 2021.

 9/17/21

Tanelle Budd, Township Clerk

Published

SEP 23 2021

CLEVELAND TOWNSHIP
LEELANAU COUNTY

ORDINANCE NO. 2022-1

AMENDMENT TO THE CLEVELAND TOWNSHIP ZONING ORDINANCE

AN ORDINANCE TO AMEND ARTICLE IX, AGRICULTURAL DISTRICT
SECTION 9.11 AGRICULTURAL TOURISM

CLEVELAND TOWNSHIP HEREBY ORDAINS:

Amendment of Article IX "Agricultural District" of Zoning Ordinance:

Add:

Section 9.11 Agricultural Tourism

1. Intent, Goals, Purposes, and Limits:

a) **Definitions**

- i. **Community supported agriculture (CSA):** A system in which a farm is supported by local consumers who purchase prepaid shares in the farm's output which they receive periodically throughout the growing season. (<https://www.merriam-webster.com>)
- ii. **Farmstay:** A building or place that provides temporary or short-term accommodation to paying guests on a Working Farm as a secondary business to primary production.
- iii. **Working Farm:** A parcel(s) actively devoted to agricultural use, on which an owner, farm manager and/or operator is engaged in the growing, raising and producing of farm products as their primary occupation, and on which less than fifty percent (50%) of the farm income is derived from non-Agricultural Tourism sales and or services over a 5-yr period. The working nature of the farm must be documented including control of the land being farmed and income/expense documentation such as sales receipts, IRS Schedule F, or other documentation that the township agrees is satisfactory.

b) **Intent**

The intent of this zoning provision is to support the economic sustainability and resiliency of local farming by allowing flexibility for a farmer to meet changes in market, social and environmental conditions through agricultural tourism and accessory uses compatible with the rural character of the township. Agricultural tourism means the practice of visiting an agricultural operation for the purposes of purchase, recreation, education, or active involvement in the operation; not as a contractor or employee of the operation. For farms that are actively growing products for sale, agricultural tourism uses can provide improved sales, marketing and

additional income opportunities to supplement the primary income derived from the farm.

c) Goals

The goals of these provisions are:

- i. To maintain and promote agriculture and related activities.
- ii. To preserve open space and farmland.
- iii. To maintain the township's agricultural heritage and rural character.
- iv. To increase community benefits by having fresh, local agricultural products for sale and working classrooms to educate school children and other residents and tourists about agriculture and related activities.
- v. To increase agriculturally related businesses that contribute to the general economic condition of the area and region.

d) Purpose

The purposes of these provisions are:

- i. To provide standard definitions related to agricultural tourism uses.
- ii. To provide a list of permitted agricultural tourism uses for Working Farms.
- iii. To provide for a clear understanding of the expectations for agricultural tourism uses for farm operators, local residents, other businesses and local officials.

e) Limits

The limits of these provisions are:

- i. Agricultural tourism uses are allowed only on Working Farms.
- ii. A farm's size must be adequate to accommodate any agricultural tourism use so as not to create a nuisance or a hazard. Issues affected by farm size include, but are not limited to, setbacks for noise abatement, adequate off road space, and adequate parking areas.
- iii. Agricultural tourism uses must meet all township zoning ordinances plus all health, building, road, safety and all other applicable local, state and federal regulations and codes.
- iv. Agricultural operations whose gross revenues are solely or primarily derived from alcoholic products are not included under these provisions. This Section does not expand uses permitted for production, processing, or sale of alcoholic products or otherwise reduce the restrictions applicable under state or local laws.
- v. Documentation that an agricultural tourism use is operating within these limits must be made available to the township upon request.

2. Agricultural tourism uses, within the limits set above, permitted by right for Working Farms in the Agricultural District.

- a) Agriculturally related uses include the following, as well as other substantially similar uses or activities that occur as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products:
 - i. Roadside stands
 - ii. On-farm market
 - iii. Direct to customer sale and distribution including Community-supported agriculture (CSA)

- iv. Value-added (other than alcohol products) processing of products grown on the farm
- v. Baking for sale at the on-farm market or local farmers markets
- vi. Corn & hay mazes
- vii. Sleigh & hay rides
- viii. Horse rides
- ix. U-Pick operations
- x. Petting farm and/or animal displays
- xi. Educational-uses such as tours of the site, exhibits, classes, lectures, seminars, etc.
- xii. Nature trails
- xiii. Open air or covered picnic area with restroom(s) and adequate trash receptacles
- xiv. Farmstays; including glamping options
- xv. Playground or equipment typical of a school playground, such as slides, swings, etc. (not including motorized vehicles or rides)

3. Other agricultural tourism use(s) accessory to a Working Farm's operation may be approved subject to site plan review per Article IV, Section 4.16 of the Zoning Ordinance.

Potential uses covered under this section are ancillary to the farm on which they are located, but utilize the rural character of the farm and the township as an asset for the business. Uses envisioned under this section include: Farmstays and extended homestead and farm experiences including lodging. The intent of this section is to provide guidelines for ideas for such ancillary uses so that the uses can financially benefit the farmer, and still preserve the rural character of the farm's neighborhood and the township.

- a) Uses proposed under this Section require a Site Plan Review approved by the Planning Commission. Information and allowable conditions required in the Site Plan (Zoning Ordinance Section 4.16) includes but are not limited to:
 - i. Description of activity or event
 - ii. Number of people involved in activity or event
 - iii. Frequency of activities or events
 - iv. Structures to be utilized
 - v. The operation is on a single parcel of 10 acres or greater, with only one Farmstay or Homestead operation allowed on a parcel.
 - vi. Maximum of four (4) camp sites or rooms. Maximum occupancy of two (2) adults per room or site, excluding minor children.
 - vii. Acceptable accommodations on camp sites includes: a tent defined as a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors, or a vehicular-type structure, primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered is permitted on camp sites.

- viii. Food may only be served to registered guests with meal costs included in the registration fee.
 - ix. A seventy-five foot (75') open set back buffer shall be provided on all sides of the property not abutting a roadway. Where feasible, crops or wood lots shall remain within the buffer to maintain the agricultural character of the parcel.
 - x. Parking plans: may be located on a grass or gravel area and must be clearly designated. Parking shall not be in the designated set back buffer.
 - xi. Any place for recreational fires must be noted and be contained within fixed pits or rings.
 - xii. Lighting plans in compliance with existing ordinances and rural character.
 - xiii. Noise control plans in compliance with existing ordinances and rural character.
 - xiv. Quiet hours are to be enforced, 10 p.m. to 7 a.m.
 - xv. The septic system must be adequate to accommodate additional occupancy (part of the health department approval).
 - xvi. A site or room may not be occupied by a party for more than 30 days.
 - xvii. The parcel owner, and or farm manager/operator must reside on the property and is responsible to enforce all conditions above.
- b) A Land Use Permit shall only be granted if the Planning Commission determines the applicant has submitted evidence demonstrating the following standards are met:
- i. The farm is a Working Farm
 - ii. The use is compatible with adjacent uses of land, the natural environment, the capacities of public services and facilities affected by the land use and will maintain the agricultural character of the location and the visual rural character of the neighborhood.
 - iii. The use will be buffered both visually and acoustically from neighbors.
 - iv. The use meets other applicable township ordinances, including but not limited to signage and lighting.
 - v. Traffic loads and road access (ingress and egress) have been reviewed and approved by the County Road Commission.
 - vi. Activity structures, locations and access routes have been reviewed and approved by the fire chief for safety and emergency access.
 - vii. Structures will meet building codes.
 - viii. A parcel owner shall provide a potable water supply in accordance with Act No. 399 of the Public Acts of 1976, as amended, being §325.1001 et seq. of the Michigan Compile Laws, and rules promulgated under the act, being R 325.10101 et seq. of the Michigan Administrative Code.
 - ix. A parcel owner and person preparing plans shall comply with all applicable statutes and rules regulating the methods and facilities for the collection, treatment, and disposal of sewage and other wastewater. A parcel owner shall ensure that the nature, capacity, maintenance, and operation of the methods and facilities do not create unlawful pollution of the waters of the state, a nuisance condition or a menace to health or safety.
 - x. Disposal of garbage and refuse shall be in accordance with state and local law, ordinances, and rules. A sufficient number of containers shall be provided for the

storage of garbage and other refuse. Garbage and refuse shall be collected and disposed of as often as necessary to prevent overflow, nuisance or odor, but not less than once each week. Containers shall be maintained in a clean and sanitary condition.

- xi. An electrical installation on a parcel shall comply with applicable codes and ordinances including, but not limited to, the state electrical code. Not more than 1 recreation unit shall be served by 1 electrical outlet.
- xii. Health department has reviewed and approved plans for water, food preparation, bathroom facilities and sanitation.

Effective Date:

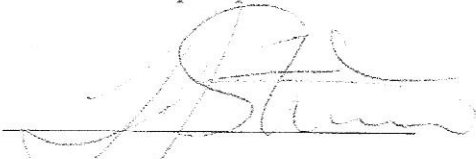
This Ordinance shall become effective thirty (30) days after publication in accordance with law.

At a regular meeting of the Township Board for Cleveland Township held on the 10th day of May, 2022, Todd Nowak moved for adoption of the foregoing ordinance and Jan Nowak supported the motion.

Voting for: Jan Nowak, Todd Nowak, Tim Stein, Tanelle Budd, Angie Diotte

Voting against: 0

The Township Supervisor declared the ordinance adopted.



Tim Stein, Township Supervisor

CERTIFICATION

The foregoing is a true copy of Ordinance No. 2022-2 which was enacted by the Township Board for the Cleveland Township at a regular meeting held on May 10, 2022.



Tanelle Budd, Township Clerk

published May 26, 2022

CLEVELAND TOWNSHIP
LEELANAU COUNTY

ORDINANCE NO. 2023-1, 2023-2, 2023-3

AMENDMENT TO THE CLEVELAND TOWNSHIP ZONING ORDINANCE

AN ORDINANCE TO AMEND SECTION 5.08 SETBACK RESTRICTIONS, 5.02 RESIDENTIAL I(b), SECTION 9.11 3 a) vi, Section 9.11, 3 b): AMEND BY ADDITION OF XIII, SECTION 3.19 DWELLING.

CLEVELAND TOWNSHIP HEREBY ORDAINS:

2023-1 Amendment of Article V "Residential District" of Zoning Ordinance:

Section 5.08 Setback Restrictions- Strike existing language and replace with:
No building or structure shall be built closer than forty (40) feet to the nearest right-of-way line of any public street or thoroughfare, no closer than ten (10) feet for side yards, no closer than ten (10) feet for rear yards, and no closer than seventy-five (75) feet to the water's edge. Where compliance with either of these restrictions creates a ~~hardship~~ (practical difficulty), application for possible relief may be made to the Zoning Board of Appeals.

Section 5.02 Residential I(b) - Strike existing language and replace with:
One guest house located on the same building lot area as the main house, and not attached to same, nor occupied for ~~over six (6) months~~ (periods of less than thirty consecutive days at a time as a rental) in any calendar year.

2023-2 Amendment of Article IX "Agricultural District" of Zoning Ordinance:

Section 9.11, 3 a) vi - Strike existing language and replace with:
Maximum of four (4) camp sites or rooms. Maximum occupancy of two (2) adults per room or site, excluding ~~minor~~ (dependent) children.

Section 9.11, 3 b): Amend by addition xiii- Addition of language:
In collaboration with the township affiliated fire department, a site appropriate fire suppression system (plan) is developed and implemented.

2023-3 Amendment of Article III "Definitions" of Zoning Ordinance:

Section 3.19 Dwelling- Strike existing language and replace with:
Any building or part thereof, occupied as the home, residence, or sleeping place of one or more persons either permanently or transiently, except automobile trailers or mobile homes ~~or cabins~~.

Effective Date:

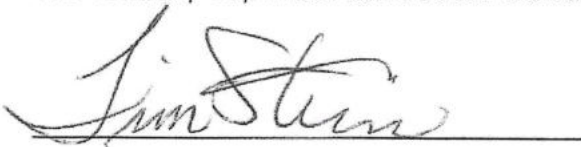
This Ordinance shall become effective thirty (30) days after publication in accordance with law.

At a regular meeting of the Township Board for Cleveland Township held on the 14th day of March 2023, Todd Nowak moved for adoption of the foregoing ordinance and Tim Stein supported the motion.

Voting for: 5

Voting against: ZERO

The Township Supervisor declared the ordinance adopted.

A handwritten signature in cursive script, appearing to read "Tim Stein", is written over a horizontal line.

Tim Stein, Township Supervisor

CERTIFICATION

The foregoing is a true copy of Ordinance No. 2023-1 which was enacted by the Township Board for the Cleveland Township at a regular meeting held on March 14, 2023.

A handwritten signature in cursive script, appearing to read "Tanelle Budd", is written over a horizontal line.

Tanelle Budd, Township Clerk

published 3/30/2023